

KENTUCKY SCHOOL LAWS Annotated

2003 SUPPLEMENT

Complete to November, 2003

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**KENTUCKY
DEPARTMENT OF EDUCATION**
Kevin M. Noland
Deputy Commissioner



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FOREWORD

This 2003 Supplement to the 2002 Edition of *Kentucky School Laws Annotated* has been published and distributed in accordance with KRS 156.240. It contains those provisions of the Kentucky Constitution and the Kentucky Revised Statutes pertaining to schools and education. In addition, it contains the new laws enacted by the 2003 Regular Session of the Kentucky General Assembly.

Interpretations of the laws which have resulted from court decisions and opinions of the Attorney General are included in notes at the end of sections in the education title. For easy reference, education-related annotations have been selected for sections outside of the education title. In addition, to facilitate research, cross references and citations to other sources are provided.

I trust this volume will serve as a valuable resource for all those with an interest in the education of Kentucky's children.

Kevin M. Noland
Deputy Commissioner of Education
and General Counsel
Kentucky Department of Education
November, 2003



Table of Contents

Sections Affected by 2003 Legislation	Page vii
Title II	
Legislative Branch	
Chapter	
7. Legislative Research Commission, § 7.410	1
Title III	
Executive Branch	
13A. Administrative Regulations, §§ 13A.015 to 13A.017, 13A.020, 13A.032, 13A.050, 13A.080, 13A.125, 13A.190, 13A.210, 13A.220, 13A.230, 13A.250, 13A.270 to 13A.300, 13A.320, 13A.333	1
13B. Administrative Hearings, § 13B.050	10
17. Public Safety, § 17.470	11
18A. State Personnel, § 18A.225	11
Title VI	
Financial Administration	
42. Finance and Administration Cabinet, § 42.500	15
45. Budget and Financial Administration, § 45.812	15
45A. Kentucky Model Procurement Code, § 45A.300	15
Title VIII	
Offices and Officers	
61. General Provisions as to Offices and Officers — Social Security for Public Employees — Employees Retirement System, § 61.552	16
Title IX	
Counties, Cities, and Other Local Units	
65. General Provisions Applicable to Counties, Cities, and Other Local Units, § 65.230	22
68. County Finance and County Treasurer, §§ 68.180, 68.190, 68.199	22
95A. Fire Protection Personnel, § 95A.265	23
Title X	
Elections	
118. Conduct of Elections, §§ 118.025, 118.315, 118.365, 118.367	23
Title XI	
Revenue and Taxation	
132. Levy and Assessment of Property Taxes, § 132.020	25
Title XII	
Conservation and State Development	
151B. Cabinet for Workforce Development, §§ 151B.097, 151B.112, 151B.125, 151B.130, 151B.165, 151B.175	26
Title XIII	
Education	
156. Department of Education, §§ 156.017, 156.029, 156.040, 156.095, 156.101, 156.132, 156.148, 156.400, 156.495, 156.740	28

Chapter	Page
157. State Support of Education, §§ 157.060, 156.067, 157.075, 157.226, 157.3175, 157.360, 157.390, 157.395, 157.410, 157.420, 157.611, 157.620 to 157.622, 157.650, 157.655, 157.660, 157.665	29
158. Conduct of Schools—Special Programs, §§ 158.005, 158.032, 158.075, 158.140, 158.175, 158.195, 158.446, 158.622, 158.6453, 158.6455, 158.647 to 158.648, 158.782, 158.7991, 158.7992, 158.805	31
159. Compulsory Attendance, § 159.140	35
160. School Districts, §§ 160.180, 160.310, 160.345, 160.348, 160.350, 160.352, 160.380, 160.463	36
161. School Employees — Teachers' Retirement and Tenure, §§ 161.010, 161.011, 161.027, 161.028, 161.102, 161.1222, 161.133, 161.134, 161.714	41
164. State Universities and Colleges — Regional Education — Archaeology, §§ 164.002, 164.680 to 164.689, 164.6901 to 164.6935, 164.769, 164.785, 164.7874	44
164A. Higher Education Finance, §§ 164A.350, 164A.370, 164A.700	54
Title XVI	
Motor Vehicles	
186. Licensing of Motor Vehicles, Operators and Trailers, §§ 186.440, 186.990	55
189. Traffic Regulations — Vehicle Equipment and Storage, § 189.550	56
Title XVII	
Economic Security and Public Welfare	
200. Assistance to Children, §§ 200.658, 200.664	57
Title XVIII	
Public Health	
216B. Licensure and Regulation of Health Facilities and Services, §§ 216B.176, 216B.177	58
Title XIX	
Public Safety and Morals	
236. Boiler and Pressure Vessel Safety, §§ 236.060, 236.210	59
Title XXVI	
Occupations and Professions	
323. Architects, § 323.010	60
Title XXVII	
Labor and Human Rights	
337. Wages and Hours, § 337.010	60
Title XXXVII	
Special Proceedings	
416. Eminent Domain, § 416.560	62
Title XXXVIII	
Witnesses, Evidence, Notaries, Commissioners of Foreign Deeds, and Legal Notices	
424. Legal Notices, § 424.220	62
Title L	
Kentucky Penal Code	
527. Offenses Relating to Firearms and Weapons, § 527.070	63
Index	65

SECTIONS AFFECTED BY 2003 LEGISLATION

NOTE: In addition to the sections listed below, users of this supplement should be aware that additional section and case note annotations have also been appropriately incorporated throughout. The sections with new and/or revised annotations do *not* appear in this listing.

KRS Section	Effect	Acts Chapter	Bill Number	Section of Bill	KRS Section	Effect	Acts Chapter	Bill Number	Section of Bill
13A.015	Repealed	89	SB 71	21	164.002	Amended	4	HB 49	1
13A.016	Repealed	89	SB 71	21	164.680	Repealed	172	HB 481	2
13A.017	Repealed	89	SB 71	21	164.681	Repealed	172	HB 481	3
13A.020	Amended	185	SB 221	3	164.682	Repealed	172	HB 481	5
13A.032	Repealed	185	SB 221	12	164.683	Repealed	172	HB 481	13
13A.050	Amended	89	SB 71	5	164.684	Repealed	172	HB 481	9
13A.080	Amended	89	SB 71	6	164.685	Repealed	172	HB 481	10
13A.125	Amended	89	SB 71	7	164.686	Repealed	172	HB 481	15
13A.190	Amended	89	SB 71	8	164.687	Repealed	172	HB 481	7
13A.210	Amended	89	SB 71	9	164.689	Repealed	172	HB 481	14
13A.220	Amended	89	SB 71	10	164.6901	Added	172	HB 481	1
13A.230	Amended	89	SB 71	11	164.6903	Repealed & Reenacted	172	HB 481	2
13A.250	Amended	89	SB 71	12	164.6905	Repealed & Reenacted	172	HB 481	3
13A.270	Amended	89	SB 71	13	164.6907	Added	172	HB 481	4
13A.280	Amended	89	SB 71	14	164.6909	Repealed & Reenacted	172	HB 481	5
13A.290	Amended	89	SB 71	15	164.6911	Added	172	HB 481	6
13A.300	Amended	89	SB 71	16	164.6913	Repealed & Reenacted	172	HB 481	7
13A.320	Amended	89	SB 71	17	164.6915	Added	172	HB 481	8
13A.333	Repealed	185	SB 221	12	164.6917	Repealed & Reenacted	172	HB 481	9
17.470	Amended	39	SB 156	1	164.6919	Repealed & Reenacted	172	HB 481	10
18A.225	Amended	12	HB 95	1	164.6921	Added	172	HB 481	11
18A.225	Amended	129	HB 370	1	164.6923	Added	172	HB 481	12
45A.300	Amended	98	HB 296	21	164.6925	Repealed & Reenacted	172	HB 481	13
61.552	Amended	169	HB 461	9	164.6927	Repealed & Reenacted	172	HB 481	14
65.230	Amended	80	SB 133	1	164.6929	Repealed & Reenacted	172	HB 481	15
68.180	Amended	117	HB 107	18	164.6931	Added	172	HB 481	16
68.190	Amended	117	HB 107	21	164.6933	Added	172	HB 481	17
68.199	Amended	117	HB 107	22	164.6935	Added	172	HB 481	18
95A.265	Added	187	HB 398	1	164.769	Amended	115	HB 40	2
118.315	Amended	53	HB 363	1	164.785	Amended	115	HB 40	3
118.365	Amended	92	HB 136	2	164.785	Amended	180	SB 17	2
118.367	Added	92	HB 136	1	164.7874	Amended	115	HB 40	4
151B.097	Added	29	SB 193	1	164.7874	Amended	180	SB 17	8
151B.112	Added	29	SB 193	2	164A.350	Amended	180	SB 17	5
151B.125	Amended	29	SB 193	13	164A.370	Amended	150	HB 524	2
151B.130	Amended	29	SB 193	14	186.440	Amended	180	SB 17	6
151B.165	Amended	29	SB 193	17	186.440	Amended	189	HB 63	2
151B.175	Amended	29	SB 193	18	186.990	Amended	103	HB 388	5
156.040	Amended	26	SB 152	1	189.550	Amended	147	SB 132	1
156.495	Amended	39	SB 156	2	200.658	Amended	69	SB 60	5
156.740	Amended	29	SB 193	19	200.664	Amended	69	SB 60	6
157.060	Amended	29	SB 193	20	216B.176	Added	127	HB 328	1
158.032	Amended	39	SB 156	3	216B.177	Added	127	HB 328	2
158.075	Added	162	HB 303	1	236.060	Amended	77	SB 109	1
158.647	Amended	185	SB 221	6	236.210	Amended	77	SB 109	2
158.6471	Amended	89	SB 71	18	337.010	Amended	166	HB 355	3
158.7991	Added	35	SB 154	1					
158.7992	Added	35	SB 154	2					
159.140	Amended	159	HB 224	1					
160.345	Amended	81	SB 134	1					
161.011	Amended	29	SB 193	21					
161.102	Added	160	HB 252	3					
161.1222	Added	6	SB 95	1					
161.133	Amended	160	HB 252	1					
161.134	Amended	160	HB 252	2					

KENTUCKY REVISED STATUTES

TITLE II LEGISLATIVE BRANCH

CHAPTER 7 LEGISLATIVE RESEARCH COMMISSION

OFFICE OF EDUCATION ACCOUNTABILITY

7.410. Office of Education Accountability — Deputy director of LRC to administer — Duties of office — Relations with other entities — Confidentiality of testimony, work products, and records.

Opinions of Attorney General.

The Office of Education Accountability cannot prosecute a case to have an executive branch employee disciplined or removed for violation of subsection (9)(a). OAG 02-4.

TITLE III EXECUTIVE BRANCH

CHAPTER 13A ADMINISTRATIVE REGULATIONS

SECTION.

- 13A.015. [Repealed.]
13A.016. [Repealed.]
13A.017. [Repealed.]
13A.020. Administrative Regulation Review Subcommittee — Membership — Meetings — Vote required to act.
13A.032. [Repealed.]
13A.050. Kentucky Administrative Regulations Service — “The Administrative Register” — Publication dates — Certificate of compiler — Fees.
13A.080. Inclusion in Administrative Register of notice of review process and procedures for public comment.
13A.125. Restriction of subsequent amendment to pending regulation or regulation with amendment already filed.
13A.190. Emergency administrative regulations.
13A.210. Tiering of administrative regulations.
13A.220. Compliance with KRS 13A.222 and 13A.224 required — Filing with compiler — Format.
13A.230. Other material to be filed with compiler.
13A.250. Fiscal note.

SECTION.

- 13A.270. Public hearing and comments — Notice — When notification of regulations compiler required.
13A.280. Statement of consideration — Amendment — Format — Information required — Publication.
13A.290. Review by Administrative Regulation Review Subcommittee — Review by subject-matter subcommittee or standing committee.
13A.300. Request by promulgating agency or a subcommittee to defer consideration of proposal — Consideration of deferred administrative regulation.
13A.320. Amendment of administrative regulation during meeting of subcommittee or public meeting.
13A.333. [Repealed.]

13A.015. Notice of intent to promulgate an administrative regulation — Public hearing. [Repealed.]

Compiler’s Notes. This section (Enact. Acts 1994, ch. 410, § 3, effective July 15, 1994; 1996, ch. 180, § 2, effective July 15, 1996; 1998, ch. 38, § 1, effective July 15, 1998; 2000, ch. 288, § 1, effective July 14, 2000; 2000, ch. 406, § 23, effective July 14, 2000) was repealed by Acts 2003, ch. 89, § 21, effective June 24, 2003.

13A.016. KRS 13A.015 inapplicable to administrative regulation promulgated only for drafting or format requirements. [Repealed.]

Compiler’s Notes. This section (Enact. Acts 1994, ch. 410, § 2, effective July 15, 1994) was repealed by Acts 2003, ch. 89, § 21, effective June 24, 2003.

13A.017. Consideration of comments from public hearing — Post-hearing filings or notification. [Repealed.]

Compiler’s Notes. This section (Enact. Acts 1994, ch. 410, § 4, effective July 15, 1994; 1996, ch. 180, § 3, effective July 15, 1996; 1998, ch. 38, § 2, effective July 15, 1998; 2000, ch. 406, § 3, effective July 14, 2000) was repealed by Acts 2003, ch. 89, § 21, effective June 24, 2003.

13A.020. Administrative Regulation Review Subcommittee — Membership — Meetings — Vote required to act.

- (1) There is hereby created a permanent subcommittee of the Legislative Research Commission to be known as the Administrative Regulation Review Subcommittee. The subcommittee shall be composed of eight (8) members appointed as follows: three (3) members of the Senate appointed by the President; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of

the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. The members of the subcommittee shall serve for terms of two (2) years, and the members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. Any vacancy which may occur in the membership of the subcommittee shall be filled by the same appointing authority who made the original appointment.

- (2) On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The co-chairs shall have joint responsibilities for subcommittee meeting agendas and presiding at subcommittee meetings. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(3).
- (3) Any professional, clerical or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).
- (4) A majority of the entire membership of the Administrative Regulation Review Subcommittee shall constitute a quorum, and all actions of the subcommittee shall be by vote of a majority of its entire membership.

(Enact. Acts 1984, ch. 417, § 2, effective April 13, 1984; 2003, ch. 185, § 3, effective March 31, 2003.)

13A.032. Effect of finding of deficiency. [Repealed.]

Compiler's Notes. This section (Enact. Acts 1988, ch. 71, § 7, effective July 15, 1988; 1990, ch. 516, § 14, effective July 13, 1990; 2000, ch. 406, § 5, effective July 14, 2000) was repealed by Acts 2003, ch. 185, § 12, effective March 31, 2003.

13A.050. Kentucky Administrative Regulations Service — "The Administrative Register" — Publication dates — Certificate of compiler — Fees.

- (1) The Legislative Research Commission shall compile, publish, and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.
- (2) (a) There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of administrative regulations filed in accordance with this chapter.
- (b) Every administrative regulation forwarded to the Legislative Research Commission shall have its complete text printed in the Administrative Register along with the accompanying statements required by KRS 13A.190, 13A.210, 13A.2251(1), 13A.240, 13A.245, 13A.250, and 13A.270.

(c) Within five (5) workdays of the publication of an administrative regulation in the Administrative Register, an administrative body shall:

1. Review the text and accompanying statements of the administrative regulation; and
 2. Notify the regulations compiler in writing of errors.
- (3) The Administrative Register shall be published the first day of each month and shall include all administrative regulations received by the Legislative Research Commission by 12 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the workday which immediately precedes the Saturday, Sunday, or holiday.
 - (4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as printed in this service is correct. One (1) copy of the Kentucky Administrative Regulations Service with the original certificate therein shall be maintained in the Office of the Secretary of State. All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings.
 - (5) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section.
 - (6) Copies of regulatory impact analysis shall be made available to any interested party upon request to the Legislative Research Commission. The Commission may prescribe reasonable fees for duplication services and all fees paid to the Commission for duplication services shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this subsection.

(Enact. Acts 1984, ch. 417, § 5, effective April 13, 1984; 1994, ch. 410, § 7, effective July 15, 1994; 1996, ch. 180, § 5, effective July 15, 1996; 2003, ch. 89, § 5, effective June 24, 2003.)

13A.080. Inclusion in Administrative Register of notice of review process and procedures for public comment.

Each issue of the Administrative Register shall contain a notice describing the regulation review process and the methods by which the public may comment upon administrative regulations, including the procedure for contacting agencies about public hearings and the public comment period.

(Enact. Acts 1984, ch. 417, § 8, effective April 13, 1984; 1994, ch. 410, § 8, effective July 15, 1994; 2003, ch. 89, § 6, effective June 24, 2003.)

13A.125. Restriction of subsequent amendment to pending regulation or regulation with amendment already filed.

Prior to the effective date of a new administrative regulation, or an amended administrative regulation that has been filed with the Legislative Research Commission, an administrative body shall not file subsequent amendments to that administrative regulation unless:

- (1) Failure to do so would result in a loss of accreditation, or federal or state funds, or the imposition of another state or federal penalty; or
- (2) A court decision, or a federal or state mandate requires immediate implementation of the amendment; or
- (3) Conditions warrant the filing of an emergency administrative regulation; or
- (4) The amendments are made:
 - (a) After a public hearing or public comment period as provided by KRS 13A.280; or
 - (b) At a subcommittee meeting during which the administrative regulation is reviewed as provided by KRS 13A.290.

(Enact. Acts 1990, ch. 516, § 2, effective July 13, 1990; 2003, ch. 89, § 7, effective June 24, 2003.)

13A.190. Emergency administrative regulations.

- (1) An emergency administrative regulation is one that:
 - (a) Must be placed into effect immediately in order to:
 1. Meet an imminent threat to public health, safety, or welfare;
 2. Prevent a loss of federal or state funds;
 3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or
 4. Protect human health and the environment; and
 - (b) 1. Is temporary in nature and will expire as provided in this section; or
 2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.
- (2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.
- (3) (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.
- (b) If an administrative body extends the time for filing a statement of consideration as provided by KRS 13A.280(2)(b), an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of

publication plus the number of days extended under the provisions of KRS 13A.280(2)(b).

- (4) An emergency administrative regulation shall not be filed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.
- (5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.
- (6) Each emergency administrative regulation shall contain a statement of:
 - (a) The nature of the emergency;
 - (b) The reasons why an ordinary administrative regulation is not sufficient;
 - (c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;
 - (d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and
 - (e) If applicable, the explanation required by subsection (5) of this section.
- (7) An administrative body shall attach the:
 - (a) Statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation; and
 - (b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.
- (8) (a) If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing and public comment period pursuant to KRS 13A.270(1). The public hearing and public comment period information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.
- (b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation:
 1. The ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced; and
 2. A public hearing and public comment period shall not be required for the emergency administrative regulation.
- (9) The statement of emergency shall have a two (2) inch top margin. The number of the emergency administrative regulation shall be typed directly

below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

- (10) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.
 - (11) (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.
 - (b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
 - (12) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.
 - (b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.
 - (c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
 - (13) A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be withdrawn.
- (Enact. Acts 1984, ch. 417, § 19, effective April 13, 1984; 1988, ch. 71, § 1, effective July 15, 1988; 1988, ch. 425, § 6, effective July 15, 1988; 1990, ch. 516, § 20, effective July 13, 1990; 1994, ch. 410, § 10, effective July 15, 1994; 1996, ch. 180, § 7, effective July 15, 1996; 2000, ch. 406, § 7, effective July 14, 2000; 2003, ch. 89, § 8, effective June 24, 2003.)

13A.210. Tiering of administrative regulations.

- (1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, must be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies shall use any number of tiers that will solve most efficiently and effectively the problem the administrative regulation addresses. A written statement shall be submitted to the Legislative

Research Commission explaining why tiering was or was not used.

- (2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:
 - (a) Reduce or modify substantive regulatory requirements;
 - (b) Eliminate some requirements entirely;
 - (c) Simplify and reduce reporting and recordkeeping requirements;
 - (d) Provide exemptions from reporting and recordkeeping requirements;
 - (e) Reduce the frequency of inspections;
 - (f) Provide exemptions from inspections and other compliance activities;
 - (g) Delay compliance timetables;
 - (h) Reduce or modify fine schedules for noncompliance; and
 - (i) Address and alleviate special problems of individuals and small businesses in complying with an administrative regulation.
 - (3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and nonsize variables. Size variables include number of citizens, number of employees, level of operating revenues, level of assets, and market shares. Nonsize variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations, and level of federal funding.
 - (4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:
 - (a) Changing demographic characteristics;
 - (b) Changes in the composition of the work force;
 - (c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;
 - (d) Changes in market concentration and segmentation;
 - (e) Advances in technology; and
 - (f) Changes in legislation.
 - (5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the Federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.
- (Enact. Acts 1984, ch. 417, § 21, effective April 13, 1984; 1990, ch. 516, § 21, effective July 13, 1990; 2003, ch. 89, § 9, effective June 24, 2003.)

13A.220. Compliance with KRS 13A.222 and 13A.224 required — Filing with compiler — Format.

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

- (1) An administrative body shall file with the regulations compiler:
 - (a) The original and five (5) copies of an administrative regulation; and
 - (b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail

- in an electronic format approved by the regulations compiler.
- (2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.
 - (3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.
 - (4) The format of an administrative regulation shall be as follows:
 - (a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-½) by eleven (11) inches and shall be double-spaced through the last line of the body of the administrative regulation. The first page shall have a two (2) inch top margin. The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;
 - (b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;
 - (c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After Comments)," "(Repealer)," "(New Emergency Administrative Regulation)," "(Emergency Amendment)," or "(Emergency Repealer)," whichever is applicable;
 - (d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;
 - (e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and
 - (f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).
 - (5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an Arabic number followed by a period (e.g., 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet followed by a period (e.g., a., b., c., etc.). Subclauses shall be designated by lower case Roman numerals in parentheses (e.g., (i), (ii), (iii), etc.).
 - (6) After the complete text of an administrative regulation, on the following page, the administrative body shall include the following information:
 - (a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;
 - (b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;
 - (c) Information relating to public hearings as required by KRS 13A.160 and 13A.270 and the public comment period required by KRS 13A.270; and
 - (d) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:
 1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;
 2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.
- (7) The format for signatures required by paragraphs (a) and (b) of subsection (6) of this section shall be as follows:
- (a) The signature shall be placed on a signature line; and
 - (b) The name and title of the person signing shall be typed immediately beneath the signature line.
- (Enact. Acts 1984, ch. 417, § 22, effective April 13, 1984; 1988, ch. 425, § 7, effective July 15, 1988; 1990, ch. 516, § 22, effective July 13, 1990; 1994, ch. 387, § 13, effective July 15, 1994; 1994, ch. 410, § 12, effective July 15, 1994; 1996, ch. 180, § 8, effective July 15, 1996; 1996, ch. 330, § 1, effective July 15, 1996; 1998, ch. 38, § 4, effective July 15, 1998; 2000, ch. 406, § 8, effective July 14, 2000; 2003, ch. 89, § 10, effective June 24, 2003.)

13A.230. Other material to be filed with compiler.

- (1) The administrative body shall attach the following forms to the back of the original and each copy of an administrative regulation:
- (a) Regulatory impact analysis as required by KRS 13A.240;
 - (b) Tiering statement as required by KRS 13A.210;
 - (c) Fiscal note as required by KRS 13A.250, if the administrative regulation relates to any aspect of local government or any service provided thereby;
 - (d) Federal mandate comparison, if applicable, as required by KRS 13A.245; and
 - (e) The summaries provided for in KRS 13A.2261, 13A.2264, and 13A.2267, if applicable.
- (2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.
- (Enact. Acts 1984, ch. 417, § 23, effective April 13, 1984; 1986, ch. 89, § 7, effective July 15, 1986; 1988, ch. 425, § 8, effective July 15, 1988; 1990, ch. 516, § 25, effective July 13, 1990; 1994, ch. 410, § 16, effective July 15, 1994; 2003, ch. 89, § 11, effective June 24, 2003.)

13A.250. Fiscal note.

- (1) Each administrative body which promulgates an administrative regulation which relates to any aspect of local government or any service provided thereby shall prepare and submit with the administrative regulation a fiscal note.
- (2) The fiscal note shall state:
- (a) The number of the administrative regulation;
 - (b) The name and telephone number of the contact person of the administrative body;
 - (c) Whether the administrative regulation relates to any aspect of a local government, including any service provided by that local government;
 - (d) The unit, part, or division of local government the administrative regulation will affect;
 - (e) In detail, the aspect or service of local government to which the administrative regulation

relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation; and

- (f) The estimated effect of the administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation will be in effect. If specific dollar estimates cannot be determined, the administrative body shall provide a brief narrative to explain the fiscal impact of the administrative regulation.
- (3) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.
- (Enact. Acts 1984, ch. 417, § 25, effective April 13, 1984; 1994, ch. 410, § 18, effective July 15, 1994; 2003, ch. 89, § 12, effective June 24, 2003.)

13A.270. Public hearing and comments — Notice — When notification of regulations compiler required.

- (1) (a) In addition to the public comment period required by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (5) of this section, hold a hearing, open to the public, on the administrative regulation.
- (b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.
- (c) The administrative body shall accept written comments regarding the administrative regulation for a period of thirty (30) days following the publication of the administrative regulation in the Administrative Register. If the thirtieth day of the comment period falls on a Saturday, Sunday, or holiday, the last day of the comment period shall be the workday following the Saturday, Sunday, or holiday.
- (2) Each administrative regulation shall state:
- (a) The place, time, and date of the scheduled public hearing;
 - (b) The manner in which interested persons shall submit their:
 - 1. Notification of attending the public hearing; and
 - 2. Written comments;
 - (c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;
 - (d) The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and
 - (e) The name, position, address, and telephone and facsimile numbers of the person to whom

- a notification and written comments shall be transmitted.
- (3) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified that the administrative body has filed an administrative regulation. This registration shall be valid for a period of four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first.
 - (b) A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be mailed:
 1. To every person who has filed this form with the administrative body;
 2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and
 3. With a cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.
 - (4) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.
 - (5) The administrative body shall immediately notify the regulations compiler by telephone and by letter if:
 - (a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; and
 - (b) No written comments have been received by the close of the last day of the public comment period.
 - (6) (a) Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.
 - (b) Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.
 - (7) Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection (4) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.
 - (8) Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.
- (Enact. Acts 1984, ch. 417, § 27, effective April 13, 1984; 1988, ch. 425; § 9, effective July 15, 1988; 1994, ch. 410, § 19, effective July 15, 1994; 1996, ch. 180, § 11, effective July 15, 1996; 2003, ch. 89, § 13, effective June 24, 2003.)
- 13A.280. Statement of consideration — Amendment — Format — Information required — Publication.**
- (1) Following the last day of the comment period, the administrative body shall give consideration to all comments received at the public hearing and during the comment period.
 - (2) (a) Except as provided in paragraph (b) of this subsection, the administrative body shall file with the commission on or before 12 noon, eastern time, on the fifteenth day following the last day of the comment period the statement of consideration relating to the administrative regulation.
 - (b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon, eastern time, of the fifteenth day following the last day of the comment period. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the last day of the comment period.
 - (3) (a) If the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (b) of this subsection to the regulations compiler by 12 noon, eastern time, on the applicable deadline specified in subsection (2) of this section.
 - (b)
 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from comments received at the public hearing and during the comment period;
 2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and
 3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

- (4) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section.
 - (b) If the statement of consideration is not received by the regulations compiler at least fifteen (15) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
 - (5) The format for the statement of consideration shall be as follows:
 - (a) The statement shall be typewritten on white paper, size eight and one-half (8-½) by eleven (11) inches. Copies of the statement may be mechanically reproduced;
 - (b) The first page of the statement of consideration shall have a two (2) inch top margin;
 - (c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and comment period and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After Comments" or "Amended After Comments," whichever is applicable;
 - (d) If a hearing has been held or written comments received, the heading is to be followed by:
 1. A statement setting out the date, time and place of the hearing;
 2. A list of those persons who attended the hearing or who submitted comments and the organization, agency, or other entity represented, if applicable; and
 3. The name and title of the representative of the promulgating administrative body;
 - (e) Following the general information, the promulgating administrative body shall summarize the comments received at the public hearing and during the comment period and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:
 1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and
 2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;
 - (f) Following the summary and comments, the promulgating administrative body shall:
 1. Summarize the statement and the action taken by the administrative body as a result of comments received at the public hearing and during the comment period; and
 2. If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by KRS 13A.320(2)(c) and (d);
 - (g) If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and
 - (h) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.
 - (6) If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.
 - (7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.
- (Enact. Acts 1984, ch. 417, § 28, effective April 13, 1984; 1988, ch. 425, § 10, effective July 15, 1988; 1990, ch. 516, § 26, effective July 13, 1990; 1994, ch. 410, § 20, effective July 15, 1994; 1996, ch. 180, § 12, effective July 15, 1996; 1998, ch. 38, § 6, effective July 15, 1998; 2000, ch. 406, § 15, effective July 14, 2000; 2003, ch. 89, § 14, effective June 24, 2003.)
- 13A.290. Review by Administrative Regulation Review Subcommittee — Review by subject-matter subcommittee or standing committee.**
- (1) Except as provided by KRS 158.6471 and 158.6472, within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within sixty (60) days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.
 - (2) The meetings shall be open to the public.
 - (3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.
 - (4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative

regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

- (5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.
- (6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly scheduled meeting, assign the administrative regulation to:
 1. A subcommittee of appropriate jurisdiction over the subject matter of the administrative regulation; or
 2. During a session of the General Assembly, the House of Representatives and Senate standing committees of appropriate jurisdiction over the subject matter of the administrative regulation.
- (b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the administrative regulation is assigned shall notify the regulations compiler:
 1. Of the date, time, and place of the meeting at which it will consider the administrative regulation; or
 2. That it will not meet to consider the administrative regulation.
- (7) Within thirty (30) days of the assignment, the subcommittee may hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.
- (8) Except as provided in subsection (9) of this section, a subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.
- (9) During a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3) by:
 - (a) Meeting separately; or
 - (b) Meeting jointly. If the standing committees

meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting in order to take action on the administrative regulation.

- (10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.
- (b) Following the meeting and before the next regularly scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

(Enact. Acts 1984, ch. 417, § 29, effective April 13, 1984; 1988, ch. 71, § 2, effective July 15, 1988; 1988, ch. 425, § 11, effective July 15, 1988; 1990, ch. 516, § 27, effective July 13, 1990; 1994, ch. 410, § 21, effective July 15, 1994; 1996, ch. 180, § 13, effective July 15, 1996; 1998, ch. 598, § 8, effective April 14, 1998; 2000, ch. 406, § 16, effective July 14, 2000; 2003, ch. 89, § 15, effective June 24, 2003.)

13A.300. Request by promulgating agency or a subcommittee to defer consideration of proposal — Consideration of deferred administrative regulation.

- (1) The administrative body which has promulgated an administrative regulation may request at a meeting of a subcommittee that consideration of the administrative regulation be deferred by the subcommittee. Upon receipt of the request, the subcommittee may defer consideration of the administrative regulation.
- (2) A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.
- (3) An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in such cases.

(Enact. Acts 1984, ch. 417, § 30, effective April 13, 1984; 1988, ch. 71, § 3, effective March 16, 1988; 1988, ch. 425, § 13, effective July 15, 1988; 1990, ch. 516, § 28, effective July 13, 1990; 1994, ch. 410, § 22, effective July 15, 1994; 1996, ch. 180, § 14, effective July 15, 1996; 2000, ch. 406, § 17, effective July 14, 2000; 2003, ch. 89, § 16, effective June 24, 2003.)

13A.320. Amendment of administrative regulation during meeting of subcommittee or public meeting.

- (1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.
- (b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:
 1. Considered at the public hearing; or
 2. Raised pursuant to a comment received by the administrative body at the public hearing or during the public comment period pursuant to KRS 13A.280(1); or
 3. Raised by the subcommittee.
- (c) Nothing in this chapter shall be construed to require its resubmission or refileing or other action. The administrative regulation may be adopted as amended.
- (d) Subsequent to its adoption, the administrative regulation shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at a meeting of a subcommittee:
 1. Relate only to the format and drafting requirements of KRS 13A.220(5) and 13A.222(4)(b), (c), (i), (j), and (k); and
 2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.
- (e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.
- (2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:
 - (a) Amendments offered by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body.
 - (b) Amendments initiated by the administrative body shall be contained in a letter to the subcommittee. The letter shall:
 1. Identify the administrative body;
 2. State the number and title of the administrative regulation;
 3. Be dated;
 4. Be filed with the regulations compiler at least five (5) workdays prior to the meeting of the subcommittee; and
 5. Comply with the format requirements in paragraphs (c) and (d) of this subsection.

- (c) On separate lines, the amendment shall be identified by the number of the:
 1. Page;
 2. Section, subsection, paragraph, subparagraph, clause, or subclause, as appropriate; and
 3. Line.

- (d) 1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.
 2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.
 3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.
 4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.
 - (3) An administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the Administrative Regulation Review Subcommittee meeting at which the amendment will be considered.
- (Enact. Acts 1984, ch. 417, § 32, effective April 13, 1984; 1988, ch. 71, § 5, effective July 15, 1988; 1988, ch. 425, § 12, effective July 15, 1988; 1990, ch. 516, § 30, effective July 13, 1990; 1994, ch. 410, § 25, effective July 15, 1994; 1996, ch. 180, § 16, effective July 15, 1996; 1998, ch. 38, § 10, effective July 15, 1998; 2003, ch. 89, § 17, effective June 24, 2003.)

13A.333. Expiration of deficient regulations.
[Repealed.]

Compiler's Notes. This section (Enact. Acts 1990, ch. 516, § 4, effective July 13, 1990; 1996, ch. 180, § 18, effective July 15, 1996; 2000, ch. 406, § 20, effective July 14, 2000) was repealed by Acts 2003, ch. 185, § 12, effective March 31, 2003.

CHAPTER 13B

ADMINISTRATIVE HEARINGS

13B.050. Notice of administrative hearing.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 8(a), at

1862; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 658 (Final Budget Memorandum, at 240).

CHAPTER 17

PUBLIC SAFETY

SECTION.

MISSING CHILD INFORMATION CENTER

17.470. Notification by State Police of missing and recovered children.

MISSING CHILD INFORMATION CENTER

17.470. Notification by State Police of missing and recovered children.

- (1) Upon receipt of a report of a missing child who was born in the Commonwealth, the Kentucky State Police shall notify within forty-eight (48) hours the state registrar of vital statistics for the Commonwealth of the disappearance of such child and shall provide to the state registrar identifying information about the missing child. Upon learning of the recovery of a missing child, the Kentucky State Police shall notify the state registrar.
- (2) The Kentucky State Police shall provide the commissioner of education with a list of the names of all missing children and children who have been recovered along with, if available, the last known school of enrollment. The commissioner of education shall provide the information to schools as required in KRS 156.495.

(Enact. Acts 1986, ch. 72, § 1, effective July 15, 1986; 1992, ch. 27, § 2, effective March 2, 1992; 2003, ch. 39, § 1, effective June 24, 2003.)

CHAPTER 18A

STATE PERSONNEL

SECTION.

HEALTH COVERAGE

18A.225. Health and dental care insurance coverage — Emergency during calendar year 2001 — Requirements of prospective carriers — Analysis of carrier coverage data — Agency's termination of participation — Provision of amount of employer contribution — Lapse of excess flexible spending account funds — Appeal of formulary change — Retiree's participation — Mail order drug option coverage — Hearing aid coverage for minors — Access to certain services in contiguous counties — Study of bid variation — Regional rating bid scenario.

HEALTH COVERAGE

18A.225. Health and dental care insurance coverage — Emergency during calendar year 2001 — Requirements of prospective carriers — Analysis of carrier coverage data — Agency's termination of participation — Provision of amount of employer contribution — Lapse of excess flexible spending account funds — Appeal of formulary change — Retiree's participation — Mail order drug option coverage — Hearing aid coverage for minors — Access to certain services in contiguous counties — Study of bid variation — Regional rating bid scenario.

- (1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and
 - (b) The term "employee" for purposes of this section means:
 1. Any person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;
 2. Any certified or classified employee of a local board of education;

3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and
 4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program.
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage, that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (14) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.
- (b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.
 - (c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (19) of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.
 - (d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.
 - (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

- (f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.
 - (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.
 - (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of employees. All employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for employees, except that the procuring of each is permissive.
- (4) The premiums may be paid by the policyholder:
- (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;
 - (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or
 - (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.
- (5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the Commonwealth not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.
- (6) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.
- (7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.
- (8) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.
- (9) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- (10) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state

- employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.
- (11) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.
 - (12) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
 - (13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.
 - (14) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.
 - (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
 - (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.
 - (15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months.
 - (16) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
 - (17) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
 - (18) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
 - (19) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:
 - (a) The regional rating bid scenario shall not include a request for bid on a statewide option;
 - (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;
 - (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;
 - (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the

contract for that region to no more than two (2) carriers; and

- (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.

(Repealed and reenact. 1982, ch. 448, § 45, effective July 15, 1982; 1984, ch. 23, § 1, effective July 13, 1984; 1986, ch. 178, § 1, effective July 15, 1986; 1990, ch. 348, § 3, effective July 13, 1990; 1990, ch. 489, § 8, effective July 13, 1990; 1992, ch. 92, § 3, effective July 14, 1992; 1992, ch. 219, § 1, effective July 14, 1992; 1992, ch. 235, § 1, effective July 14, 1992; 1994, ch. 350, § 1, effective July 15, 1994; 1994, ch. 512, Part 14, § 94, effective July 15, 1994; 1996, ch. 362, § 6, effective July 15, 1996; 1996, ch. 371, § 60, effective July 15, 1996; 1998, ch. 82, § 4, effective July 15, 1998; 1998, ch. 154, § 45, effective July 15, 1998; 1998, ch. 515, § 1, effective July 1, 1998; 2000, ch. 438, § 2, effective April 21, 2000; 2001, ch. 70, § 3, effective March 15, 2001; 2002, ch. 67, § 1, effective July 15, 2002; 2002, ch. 106, § 2, effective July 15, 2002; 2002, ch. 275, § 34, effective July 1, 2002; 2002, ch. 345, § 1, effective July 15, 2002; 2002, ch. 351, § 17, effective July 15, 2002; 2002, ch. 352, §§ 1, 4, effective July 15, 2002; 2003, ch. 12, § 1, effective June 24, 2003; 2003, ch. 129, § 1, effective March 18, 2003.)

Legislative Research Commission Note. (6/24/2003). This section was amended by 2003 Ky. Acts chs. 12 and 129, which do not appear to be in conflict and have been codified together.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. V, item 2(K)(l), at 1856; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 439 (Final Budget Memorandum, at 7).

TITLE VI

FINANCIAL ADMINISTRATION

CHAPTER 42

FINANCE AND ADMINISTRATION CABINET

INVESTMENT COMMISSION

42.500. State Investment Commission — Powers.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 8(b), at 1862; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 666 (Final Budget Memorandum, at 246).

CHAPTER 45

BUDGET AND FINANCIAL ADMINISTRATION

CAPITAL PROJECTS AND BONDS

45.812. Listing of costs relating to issuance of revenue bonds authorized by appropriation of school district.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. II, item 7, at 1837; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 462 (Final Budget Memorandum, at 42).

CHAPTER 45A

KENTUCKY MODEL PROCUREMENT CODE

SECTION.

KENTUCKY MODEL PROCUREMENT CODE

45A.300. Cooperative purchasing.

KENTUCKY MODEL PROCUREMENT CODE

45A.300. Cooperative purchasing.

- (1) Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. This cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.
- (2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of KRS 45A.070 to 45A.180.
- (3) Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of KRS 45A.045(5) and KRS 45A.070 to 45A.165, with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.
- (4) Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the lease or common use of capital equipment or facilities with any other public purchasing unit or a foreign purchasing activity subject to the terms as may be agreed upon between the parties.

- (5) Nothing in this code shall limit or restrict the ability of local school districts to acquire supplies outside of the public purchasing agreements when the supplies and equipment meeting the same specifications as the contract items are available at a lower price elsewhere and the purchase does not exceed two thousand five hundred dollars (\$2,500).
- (6) Nothing in this code shall limit any public purchasing unit from receiving notice of or accepting a price reduction on supplies or equipment when the supplies or equipment are being offered by the vendor with whom a price agreement has been made; the supplies or equipment are being offered in accordance with all terms and conditions that are specified in the price agreement, except those relating to price; and the price reduction is offered to all of the participants in the price agreement. Public purchasing units may accept special price reductions under this subsection even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement. Price reductions under this subsection shall not be considered to permanently alter the price of the supplies or equipment under the price agreement with the Commonwealth, except where the price reductions are to be made permanent under the express terms of the price agreement and where the purchasing agency which solicited the price agreement determines that the enforcement of those terms serves the best interest of the Commonwealth.
- (Enact. Acts 1978, ch. 110, § 60, effective January 1, 1980; 1990, ch. 496, § 28, effective July 13, 1990; 1996, ch. 89, § 1, effective July 15, 1996; 1997 (1st Ex. Sess.), ch. 4, § 31, effective May 30, 1997; 2003, ch. 98, § 21, effective June 24, 2003.)

TITLE VIII

OFFICES AND OFFICERS

CHAPTER 61

GENERAL PROVISIONS AS TO OFFICES AND OFFICERS — SOCIAL SECURITY FOR PUBLIC EMPLOYEES — EMPLOYEES RETIREMENT SYSTEM

SECTION.

KENTUCKY EMPLOYEES RETIREMENT SYSTEM

- 61.552. Service credit regained or obtained — Purchase of current service and service credit — Interest paid — Delayed contribution — Installment payments.

KENTUCKY EMPLOYEES RETIREMENT SYSTEM

61.552. Service credit regained or obtained — Purchase of current service and service credit — Interest paid — Delayed contribution — Install- ment payments.

- (1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.
- (2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

- (5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.
- (b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.
- (6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.
- (7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.
- (8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not participate in a defined benefit or defined contribution retirement program at the university may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.
- (9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);
- (b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);
- (c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;
- (d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;
- (e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

- (10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.
- (11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).
- (12) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for interim, seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).
- (b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).
- (13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:
- (a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or
- (b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.
- (14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.
- (15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.
- (16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making

installment payments in lieu of a lump-sum payment.

- (a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.
- (b) One (1) year of installment payments shall be made for each one thousand dollars (\$1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.
- (c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.
- (d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.
- (e) If the employee elects to stop the installment payments, dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum, except that payment by the member shall be made prior to the effective retirement date. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the

member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

- (f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.
 - (g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.
- (17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.
- (18) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a

regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

- (19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.
- (20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.
- (21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates a delayed contribution pay-

ment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

- (22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).
- (23) (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.
- (b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.
- (24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the

- former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.
- (25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.
- (26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.
- (27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations Commissioner by paying to the retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.
- (28) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.510 to 16.552, 61.515 to 61.705, and 78.520 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).
- (29) An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1), by paying a delayed contribution. The payment shall not be picked up by the employer, except as provided in subsection (28) of this section, and shall be credited to the employee's second retirement account. Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:
- The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;
 - The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and
 - The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems.
- (Enact. Acts 1962, ch. 58, § 2; 1964, ch. 86, § 2; 1966, ch. 35, § 4; 1972, ch. 116, § 31; 1974, ch. 128, § 15; 1976, ch. 321, § 16; 1980, ch. 322, § 1, effective July 15, 1980; 1980, ch. 404, § 1, effective July 15, 1980; 1982, ch. 166, § 18, effective July 15, 1982; 1982, ch. 423, § 7, effective July 15, 1982; 1984, ch. 329, § 1, effective July 13, 1984; 1986, ch. 90, § 10, effective July 15, 1986; 1986, ch. 293, § 6, effective July 15, 1986; 1986, ch. 490, §§ 2 and 3, effective July 15, 1986; 1988, ch. 308, § 1, effective July 15, 1988; 1988, ch. 349, § 16, effective July 15, 1988; 1988, ch. 351, § 5, effective July 15, 1988; 1988, ch. 404, § 1, effective July 15, 1988; 1990, ch. 117, § 2, effective July 13, 1990; 1990, ch. 346, §§ 2, 3, effective July 13, 1990; 1990, ch. 489, § 5, effective July 13, 1990; 1992, ch. 100, § 12, effective July 14, 1992; 1992, ch. 240, § 21, effective July 14, 1992; 1994, ch. 406, § 2, effective April 11, 1994; 1994, ch. 485,

§ 12, effective July 15, 1994; 1996, ch. 31, § 4, effective July 15, 1996; 1996, ch. 70, § 1, effective July 15, 1996; 1996, ch. 167, § 10, effective July 15, 1996; 1996, ch. 346, § 1, effective July 15, 1996; 1998, ch. 56, § 1, effective July 15, 1998; 1998, ch. 105, § 9, effective July 15, 1998; 2000, ch. 385, § 14, effective July 14, 2000; 2002, ch. 52, § 5, effective July 15, 2002; 2002, ch. 210, § 1, effective July 15, 2002; 2002, ch. 270, § 3, effective July 15, 2002; 2003, ch. 169, § 9, effective March 31, 2003.)

TITLE IX

COUNTIES, CITIES, AND OTHER LOCAL UNITS

CHAPTER 65

GENERAL PROVISIONS APPLICABLE TO COUNTIES, CITIES, AND OTHER LOCAL UNITS

SECTION.

INTERLOCAL COOPERATION ACT

65.230. Definition of “public agency” for KRS 65.210 to 65.300.

INTERLOCAL COOPERATION ACT

65.230. Definition of “public agency” for KRS 65.210 to 65.300.

As used in KRS 65.210 to 65.300, unless the context otherwise requires, “public agency” means any political subdivision of this state, any agency of the state government or of the United States, a sheriff, any county or independent school district, and any political subdivision of another state. It also means a state-supported or private institution of higher education and a county or independent public school district for the purposes of entering into a joint agreement to establish and operate a program or facility, including a center for child learning and study, designed to help one (1) or more schools meet any of the goals set forth in KRS 158.6451, or for the investment of funds. If a private institution of higher education proposes to participate in an agreement pursuant to the Interlocal Cooperation Act, the Attorney General shall determine if the proposal is compatible with the United States Constitution, as part of the review of the agreement provided in KRS 65.260(2).

(Enact. Acts 1962, ch. 216, § 3; 1964, ch. 114, § 1; 1982, ch. 87, § 1, effective July 15, 1982; 1988, ch. 393, § 1, effective July 15, 1988; 1994, ch. 356, § 1, effective July 15, 1994; 2000, ch. 464, § 3, effective July 14, 2000; 2003, ch. 80, § 1, effective June 24, 2003.)

CHAPTER 68

COUNTY FINANCE AND COUNTY TREASURER

SECTION.

LICENSE TAXES

- 68.180. Occupational license tax in counties containing 300,000 population.
- 68.190. Credit for payment of similar city tax.
- 68.199. County that attains population of 30,000 — Credit against occupational license fee — Voluntary credit — New fee or increase in fee.

LICENSE TAXES

68.180. Occupational license tax in counties containing 300,000 population.

- (1) The fiscal court of each county having a population of three hundred thousand (300,000) or more may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
 - (2) License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate not to exceed one and one-fourth percent (1.25%) of:
 - (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county; and
 - (b) The net profits of businesses, trades, professions, or occupations from activities conducted in the county.
 - (3) The provisions of subsection (2) of this section shall not apply to license fees imposed for regulatory purposes as to form and amount. No public service company that pays an ad valorem tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or upon income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in other cases where the county is prohibited by law from imposing a license tax.
 - (4) The provisions and limitations of subsection (2) of this section shall not apply to the license fees authorized by KRS 160.482 to 160.488.
- (Enact. Acts 1960, ch. 80, § 1; 1965 (1st Ex. Sess.), ch. 2, § 23; 1976, ch. 104, § 1; 1976, ch. 301, § 2; 1990, ch.

476, Pt. IV, § 120, effective July 13, 1990; 1998, ch. 509, § 1, effective July 15, 1998; 2002, ch. 230, § 1, effective July 15, 2002; 2003, ch. 117, § 18, effective June 24, 2003.)

68.190. Credit for payment of similar city tax.

Any amount paid to any city of the first class within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under subsections (1) and 2 of KRS 68.180. Any amount paid to any other city within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under subsections (1) and 2 of KRS 68.180, provided that such city, at least thirty (30) days prior to the beginning of any county fiscal year, has contracted with the fiscal court to contribute annually to the support of joint agencies of such county and one or more cities in the county, an amount which bears the same ratio to the annual appropriation made for such joint agencies by a city of the first class in the county, as the assessed valuations for county tax purposes, as determined by the property valuation administrator, of the real and tangible personal property, excluding franchises, located within the corporate limits of such other cities, respectively, bears to the same assessed valuations within a city of the first class in said county.

(Repealed and reenact. Acts 1990, ch. 476, Pt. V, § 299, effective July 13, 1990; 2003, ch. 117, § 21, effective June 24, 2003.)

68.199. County that attains population of 30,000 — Credit against occupational license fee — Voluntary credit — New fee or increase in fee.

- (1) Notwithstanding the provisions of KRS 68.197(7), a county that enacts an occupational license fee under the authority of KRS 67.083 prior to attaining a population of thirty thousand (30,000) shall not be required to allow a credit against the county occupational license fee for an occupational license fee paid to a city within the county when it is determined that the population of the county exceeds thirty thousand (30,000).
- (2) If prior to July 15, 2002, a county voluntarily granted a credit against the county occupational license fee under the terms of an ordinance, interlocal agreement, or other agreement with a city, the county shall not eliminate the credit after it is determined that the population of the county exceeds thirty thousand (30,000).
- (3) After July 15, 2002, a county that enacts a new county occupational license fee or increases a county occupational license fee, after it is determined that the county population exceeds thirty thousand (30,000), shall be required to allow the credit against the city fee required by KRS 68.197(7) to the extent of the increase or new fee.
- (4) For purposes of this section, the county population shall be determined based only on the official decennial census by the United States Bureau of the Census.

(Enact. Acts 2002, ch. 161, § 1, effective July 15, 2002; 2003, ch. 117, § 22, effective June 24, 2003.)

CHAPTER 95A

FIRE PROTECTION PERSONNEL

SECTION.

PROFESSIONAL FIREFIGHTERS FOUNDATION PROGRAM FUND

95A.265. Safety education fund — Education programs in public schools and agencies — Administrative regulations to establish funding criteria.

PROFESSIONAL FIREFIGHTERS FOUNDATION PROGRAM FUND

95A.265. Safety education fund — Education programs in public schools and agencies — Administrative regulations to establish funding criteria.

- (1) There is hereby created a safety education fund to be administered by the Commission on Fire Protection Personnel Standards and Education to initiate education programs in the public schools and other agencies to reduce and prevent injuries and the loss of life. The fund shall:
 - (a) Provide funding for a statewide “Risk Watch” program to be implemented in the public schools;
 - (b) Provide funding for statewide fire safety initiatives and programs including the “Learn Not to Burn” program; and
 - (c) Allot grants to fire departments to provide resources for public education programs.
 - (2) The commission shall promulgate administrative regulations to establish the criteria for providing funds to initiate injury prevention curricula and training programs throughout the state. The funding criteria shall include requirements that the recipients of funds work in cooperation with other agencies to establish the programs.
- (Enact. Acts 2003, ch. 187, § 1, effective June 24, 2003.)

TITLE X

ELECTIONS

CHAPTER 118

CONDUCT OF ELECTIONS

SECTION.

REGULAR ELECTIONS

- 118.315. Nomination for regular election by petition — Form of petition — Examination of petition.
- 118.365. Time for filing certificates and petitions of nomination — Statement-of-candidacy forms — Petitions for recall elections or elections on public questions.

SECTION.

118.367. Statement-of-candidacy form for independent candidate.

118.025. Voting to be by secret ballot on voting machines — General laws applicable — Time for holding elections.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. A, item 8, at 1727; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 616 (Final Budget Memorandum, at 203).

REGULAR ELECTIONS

118.315. Nomination for regular election by petition — Form of petition — Examination of petition.

- (1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person whose registration status is as a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate whose registration status was as a registered member of a political party on January 1 immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(7), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.
- (2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office shall not be solicited prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary

that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number or date of birth, and post-office address. Failure of a voter to include his Social Security number or date of birth and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.

- (3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.
 - (4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (Enact. Acts 1974, ch. 130, § 117; 1978, ch. 318, § 7, effective June 17, 1978; 1982, ch. 394, § 26, effective July 15, 1982; 1984, ch. 185, § 17, effective July 13, 1984; 1986, ch. 287, § 14, effective July 15, 1986; 1986, ch. 470, § 27, effective July 15, 1986; 1988, ch. 17, § 11, effective July 15, 1988; 1990, ch. 48, § 45, effective July 13, 1990; 1990, ch. 166, § 1, effective July 13, 1990; 1990, ch. 476, Pt. V, § 304, effective July 13, 1990; 1992, ch. 296, § 11, effective July 14, 1992; 1998, ch. 2, § 5, effective July 15, 1998; 1998, ch. 243, § 2, effective April 1, 1998; 2000, ch. 275, § 2, effective July 14, 2000; 2003, ch. 53, § 1, effective June 24, 2003.)

118.365. Time for filing certificates and petitions of nomination — Statement-of-candidacy forms — Petitions for recall elections or elections on public questions.

- (1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.
- (2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections for the offices sought.
- (3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS

118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the regular election for the office sought.

- (4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.
- (5) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. The filing of petitions of nomination for independent candidates shall not be accepted by the Secretary of State or the county clerk if the candidate has not filed a statement-of-candidacy form as required by KRS 118.367.
- (6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and not later than the first Tuesday in September preceding the date fixed by law for the election of the electors.
- (7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a general election.
- (8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing

when filed on the last date on which such papers are permitted to be filed.

(Enact. Acts 1974, ch. 130, § 122; 1978, ch. 384, § 254, effective June 17, 1978; 1982, ch. 394, § 28, effective July 15, 1982; 1984, ch. 185, § 20, effective July 13, 1984; 1984, ch. 185, § 21, effective January 2, 1985; 1986, ch. 185, § 2, effective January 1, 1987; 1986, ch. 470, § 28, effective July 15, 1986; 1988, ch. 238, § 2, effective July 15, 1988; 1990, ch. 48, § 47, effective July 13, 1990; 1990, ch. 169, § 9, effective July 13, 1990; 1990, ch. 476 Pt. V, § 305, effective July 13, 1990; 1992, ch. 296, § 12, effective July 14, 1992; 1996, ch. 195, § 17, effective July 15, 1996; 1998, ch. 2, § 7, effective July 15, 1998; 2003, ch. 92, § 2, effective June 24, 2003.)

118.367. Statement-of-candidacy form for independent candidate.

- (1) An independent candidate required to file nomination papers pursuant to KRS 118.365(5) shall be required to file a statement-of-candidacy form with the same office at which nomination papers are filed. The statement-of-candidacy form shall be filed not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than April 1 preceding the day fixed by law for holding of general elections for the offices sought. If the office in which the statement-of-candidacy form is to be filed is closed on April 1, the form may be filed on the next business day. The statement-of-candidacy form shall be filed no later than 4 p.m. local time when filed on the last day on which papers are permitted to be filed. No person shall file a statement-of-candidacy form for more than one (1) public office during an election cycle.
 - (2) The statement-of-candidacy form shall be prescribed by the State Board of Elections. The statement-of-candidacy form shall be signed by the candidate upon filing. No charge shall be assessed for the filing of a statement-of-candidacy form. The Secretary of State and county clerks shall examine the statement-of-candidacy form of each candidate who files the form to determine if there is an error. If an error has occurred, the candidate shall be notified by certified mail within twenty-four (24) hours.
- (Enact. Acts 2003, ch. 92, § 1, effective June 24, 2003.)

TITLE XI

REVENUE AND TAXATION

CHAPTER 132

LEVY AND ASSESSMENT OF PROPERTY TAXES

132.020. State ad valorem taxes.

2002-2004 Budget References. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. A, item 1(a),

at 1724; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 572 (Final Budget Memorandum, at 159).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. V, item 2(A)(2), at 1850; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 437, 572 (Final Budget Memorandum, at 5).

TITLE XII CONSERVATION AND STATE DEVELOPMENT

CHAPTER 151B CABINET FOR WORKFORCE DEVELOPMENT

SECTION.

- 151B.097. Kentucky Technical Education Personnel Board.
 151B.112. Department for Technical Education to manage state-operated secondary area vocational education and technology centers.
 151B.125. Equivalents to standard high school diploma — Diploma through examination — External diploma program.
 151B.130. Foundation for Adult Education.
 151B.165. Tuition and fess in secondary area vocational education and technology centers.
 151B.175. Medical and accident insurance for students.

151B.097. Kentucky Technical Education Personnel Board.

- (1) The Kentucky Technical Education Personnel Board is hereby established to conduct personnel appeals from certified and equivalent employees in the Department for Technical Education under KRS Chapter 151B. Appeals shall be conducted in accordance with the provisions established in KRS Chapter 13B. The board shall be attached to the Department for Technical Education for administrative purposes.
- (2) The Kentucky Technical Education Personnel Board shall be composed of five (5) voting members, three (3) of whom shall be selected from employees of agencies within the Cabinet for Workforce Development, except no member shall be an employee within the Office of the Secretary or the Department for Technical Education. The remaining two (2) members shall be teachers employed by the Department for Technical Education's Area Technology Centers. The election of the teacher representatives may be conducted by written ballot, Internet balloting, intranet balloting, or electronic mail. The teacher candidates may be present when the balloting is tallied. All votes cast shall be tallied by an independent entity.
 - (a) The Governor shall appoint the two (2) members elected by the teachers employed by the Department for Technical Education's Area Technology Centers and the three (3) members

selected from employees of agencies within the Cabinet for Workforce Development. All members shall be appointed by the Governor to four (4) year terms, and each term shall end on June 30 of the fourth year. Terms of new members or reappointed members shall begin on July 1 of the year beginning their term. If a vacancy occurs during a term, the Governor shall appoint a replacement to serve the remainder of the unexpired term within thirty (30) days of the vacancy. The Governor shall select a replacement from the group where the vacancy occurred. The manner of selection for the replacement shall be the same as the manner of the original selection.

- (b) The members shall possess an understanding of the personnel system established in KRS Chapter 151B.
 - (c) A chair shall be elected annually by members of the board.
 - (3) The board shall meet as necessary to comply with time frames for conducting personnel appeals under KRS Chapter 13B and KRS Chapter 151B, and at other times as deemed necessary by the chair of the board. For meetings of the board, a majority of the voting members shall be present to constitute a quorum for the transaction of business.
 - (4) The Department for Technical Education shall provide administrative, budgetary and support staff services for the board.
 - (5) Employees of the Cabinet for Workforce Development who serve as members of the board shall not receive additional salary for serving as members on the board. However, upon approval of the commissioner of the Department for Technical Education, board members shall be entitled to reimbursement of actual and necessary expenses incurred while performing their duties as an active member of the board.
 - (6) During personnel appeals conducted by the board, both parties shall be given the opportunity to have a representative present at each step of the process.
- (Enact. Acts 2003, ch. 29, § 1, effective June 24, 2003.)

151B.112. Department for Technical Education to manage state-operated secondary area vocational education and technology centers.

The Department for Technical Education shall have the management and control of state-operated secondary area vocational education and technology centers, and all programs and services operated in these centers.
 (Enact. Acts 2003, ch. 29, § 2, effective June 24, 2003.)

151B.125. Equivalents to standard high school diploma — Diploma through examination — External diploma program.

- (1) For purposes of any public employment, a high school equivalency diploma or a regular high school diploma obtained through participation in the external diploma program shall be considered

equal to a high school diploma issued under the provisions of KRS 158.140.

- (a) A high school equivalency diploma shall be issued without charge upon successfully passing the test given by the Department for Adult Education and Literacy approved testing centers in conformance with requirements of the General Educational Development Testing Service of the American Council on Education. A fee may be assessed by the Department for Adult Education and Literacy for the issuance of a duplicate high school equivalency diploma and for issuance of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.
 - (b) As an alternative to receiving a high school equivalency diploma, persons who are twenty-five (25) years or older may obtain a high school diploma through participation in the external diploma program. The diploma shall be issued upon achieving one hundred percent (100%) mastery on the competencies established by the American Council on Education. The Department for Adult Education and Literacy may enter into agreements with local school districts to confer the high school diploma on successful participants in the external diploma program.
 - (2) The Department for Adult Education and Literacy is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring the GED examination essay.
- (Repealed, reenact. and amend. Acts 1990, ch. 470, § 23, effective July 1, 1990; 1994, ch. 363, § 6, effective July 15, 1994; 1994, ch. 469, § 23, effective July 15, 1994; 1996, ch. 145, § 1, effective July 15, 1996; 1998, ch. 63, § 2, effective July 15, 1998; 2003, ch. 29, § 13, effective June 24, 2003.)

151B.130. Foundation for Adult Education.

- (1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.
- (2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.
- (3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the Cabinet for Workforce Development with responsibility for adult education programs based on recommendations from business, industry, labor, edu-

cation, and interested citizens. Staff for the board of trustees shall be provided by the cabinet.

- (4) The foundation shall be attached to the office of the secretary of the Cabinet for Workforce Development for administrative purposes.
- (Repealed, reenact. and amend. Acts 1990, ch. 470, § 24, effective July 1, 1990; 1996, ch. 217, § 3, effective July 15, 1996; 2003, ch. 29, § 14, effective June 24, 2003.)

151B.165. Tuition and fees in secondary area vocational education and technology centers.

Tuition and fees for secondary pupils enrolled in the state secondary area vocational education and technology centers operated by the Department for Technical Education shall be free to all residents of Kentucky. The commissioner of the Department for Technical Education shall fix the rate of tuition and fees for adults who are enrolled in secondary programs in the state-operated area vocational education and technology centers under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Community and Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Community and Technical College System.

(Repealed, reenact. and amend. Acts 1990, ch. 470, § 32, effective July 1, 1990; 1997 (1st Ex. Sess.), ch. 1, § 51, effective May 30, 1997; 2003, ch. 29, § 17, effective June 24, 2003.)

151B.175. Medical and accident insurance for students.

- (1) The commissioner of the Department for Technical Education is authorized to provide medical and accident insurance for students enrolled in the state secondary area technology centers and area vocational education centers. The Department for Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in state-operated schools under its jurisdiction. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.
- (2) The commissioner of the Department for Technical Education, shall promulgate administrative regulations to implement the medical and accident insurance program. The commissioner of the Department for Technical Education may fix the rate of fees for all secondary students, the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as he or she deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

- (3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the commissioner of the Department for Technical Education.

(Repealed, reenact. and amend. Acts 1990, ch. 470, § 34, effective July 1, 1990; 1994, ch. 469, § 26, effective July 15, 1994; 1997 (1st Ex. Sess.), ch. 1, § 52, effective May 30, 1997; 2003, ch. 29, § 18, effective June 24, 2003.)

TITLE XIII EDUCATION

CHAPTER.

156. DEPARTMENT OF EDUCATION.
157. STATE SUPPORT OF EDUCATION.
158. CONDUCT OF SCHOOLS — SPECIAL PROGRAMS.
159. COMPULSORY ATTENDANCE.
160. SCHOOL DISTRICTS.
161. SCHOOL EMPLOYEES—TEACHERS' RETIREMENT AND TENURE.
164. STATE UNIVERSITIES AND COLLEGES—REGIONAL EDUCATION—ARCHAEOLOGY.
164A. HIGHER EDUCATION FINANCE.

CHAPTER 156

DEPARTMENT OF EDUCATION

SECTION.

KENTUCKY BOARD OF EDUCATION

- 156.040. Qualification of board members.

MISCELLANEOUS

- 156.495. Program to identify and locate missing children enrolled in Kentucky schools.

INTERAGENCY COMMISSION ON EDUCATIONAL AND JOB TRAINING COORDINATION

- 156.740. Interagency Commission on Educational and Job Training Coordination — Membership.

DEPARTMENT GENERALLY

156.017. Regional service centers.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. C, item 32(d), at 1743; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 774 (Final Budget Memorandum, at 364).

KENTUCKY BOARD OF EDUCATION

156.029. Kentucky Board of Education — Membership — Functions.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 15(e), at

1865; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 758 (Final Budget Memorandum, at 349).

156.040. Qualification of board members.

- (1) As used in this section, “relative” means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.
- (2) A member of the Kentucky Board of Education shall:
 - (a) Be at least thirty (30) years of age;
 - (b) Have at least an associate degree or its equivalent;
 - (c) Have been a resident of Kentucky for at least three (3) years preceding the member’s appointment;
 - (d) Not hold a state office requiring the constitutional oath;
 - (e) Not be a member of the General Assembly;
 - (f) Not hold or discharge the duties of any civil or political office, deputyship, or agency under the city or county of his or her residence;
 - (g) Not be directly or indirectly interested in the sale to the Kentucky Board of Education or the Department of Education of books, stationery, or any other property, materials, supplies, equipment, or services for which board or department funds are expended;
 - (h) Not have a relative as defined in subsection (1) of this section who is employed by the Department of Education;
 - (i) Not have been removed from the board for cause; and
 - (j) Not be engaged as an elementary or secondary education professional educator.
- (3) Appointments to the board shall be made without reference to occupation, political affiliation, or similar considerations.
(4377-5: amend. Acts 1962, ch. 244, Art. III, § 3; 1978, ch. 155, § 87, effective June 17, 1978; 1986, ch. 331, § 28, effective July 15, 1986; 1988, ch. 361, § 6, effective July 15, 1988; 1990, ch. 470, § 48, effective July 1, 1990; 1990, ch. 476, Pt. II, § 38, effective July 13, 1990; 1996, ch. 362, § 6, effective July 15, 1996; 1998, ch. 257, § 1, effective July 15, 1998; 2003, ch. 26, § 1, effective March 10, 2003.)

156.095. Professional development programs — Professional development coordinator — Long term improvement plans — Electronic consumer bulletin board — Training to address needs of students at risk — Teacher academics.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. C, item 32(d), at 1743; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 774 (Final Budget Memorandum, at 364).

Northern Kentucky Law Review. Kentucky Law Survey: Education, 29 N. Ky. L. Rev. 115 (2002).

156.101. Purpose of section — Definition of “instructional leader” — Instructional leader improvement program.

Northern Kentucky Law Review. Kentucky Law Survey: Education, 29 N. Ky. L. Rev. 115 (2002).

REMOVAL OR SUSPENSION OF SCHOOL OFFICERS

156.132. Removal or suspension of public school officers — Procedure, grounds, conditions.

Opinions of Attorney General.

In both KRS 160.345 hearings and KRS 156.132 hearings, the role of the Commissioner of Education in the hearings is authorized not by those statutes, but by the grant of authority vested in the commissioner as the executive and administrative officer of the Board of Education by KRS 156.148(3). OAG 02-4.

COMMISSIONER OF EDUCATION

156.148. Commissioner of education — Selection — Duties.

Opinions of Attorney General. In both KRS 160.345 hearings and KRS 156.132 hearings, the role of the Commissioner of Education in the hearings is authorized not by those statutes, but by the grant of authority vested in the commissioner as the executive and administrative officer of the Board of Education by KRS 156.148(3). OAG 02-4.

TEXTBOOK COMMISSION

156.400. School subjects' adoption groups — Textbook contracts and purchases.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(m), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 773 (Final Budget Memorandum, at 365).

MISCELLANEOUS

156.495. Program to identify and locate missing children enrolled in Kentucky schools.

- (1) The Department of Education shall weekly distribute the names, provided by the Kentucky State Police, of all missing children and children who have been recovered to all public and private schools admitting children in preschool through grade twelve (12).
- (2) Every public and private school in this state shall notify local law enforcement or the Kentucky State Police at its earliest known contact with any child whose name appears on the list of missing Kentucky children.

- (3) The department shall encourage each public and private school to engage in a program whereby the parents of children who are absent from school are notified in person or by telephone to verify if they know that the child is not attending school.

(Repealed and reenact. Acts 1990, ch. 476, Pt. V, § 372, effective July 13, 1990; 2003, ch. 39, § 2, effective June 24, 2003.)

INTERAGENCY COMMISSION ON EDUCATIONAL AND JOB TRAINING COORDINATION

156.740. Interagency Commission on Educational and Job Training Coordination — Membership.

- (1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex officio capacity:
 - (a) The chairman of the Council on Postsecondary Education;
 - (b) The president of the Council on Postsecondary Education;
 - (c) The chairman of the Kentucky Board of Education;
 - (d) The commissioner of the Department of Education;
 - (e) The secretary of the Cabinet for Workforce Development;
 - (f) The chairman of the Board for the Kentucky Higher Education Assistance Authority; and
 - (g) The president of the Kentucky Community and Technical College System.
 - (2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (½) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.
- (Enact. Acts 1992, ch. 322, § 1, effective July 14, 1992; 1996, ch. 362, § 6, effective July 15, 1996; 1997 (1st Ex. Sess.), ch. 1, § 60, effective May 30, 1997; 2003, ch. 29, § 19, effective June 24, 2003.)

CHAPTER 157

STATE SUPPORT OF EDUCATION

SECTION.

GENERAL PROVISIONS

- 157.060. Reports of funds received and spent by school districts.

SCHOOL FACILITIES CONSTRUCTION COMMISSION

- 157.611. School Facilities Construction Commission — Legislative intent.

GENERAL PROVISIONS

157.060. Reports of funds received and spent by school districts.

The officials of each educational institution and each school district supported in whole or in part from taxation shall make a report to the Kentucky Board of Education or the Kentucky Technical Education Personnel Board established in KRS 151B.097 at the close of each scholastic year, showing in detail all funds received from the state and from all other sources during the year, and a detailed statement of all expenditures for the year.

(4370-5: amend. Acts 1978, ch. 155, § 82, effective June 17, 1978; 1988, ch. 361, § 13, effective July 15, 1988; 1990, ch. 476, Pt. IV, § 169, effective July 13, 1990; 1996, ch. 362, § 6, effective July 15, 1996; 2003, ch. 29, § 20, effective June 24, 2003.)

157.067. Kentucky successful schools trust fund.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. V, item 2(c)(3), at 1853; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 438, 774 (Final Budget Memorandum, at 6, 364).

157.075. Differentiated compensation plans — Professional compensation fund — Department of Education recommendations on teacher compensation.

Cross-References. Differentiated compensation, 702 KAR 3:310.

SPECIAL EDUCATIONAL PROGRAMS

157.226. Preschool program for disabled children.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(i), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 772 (Final Budget Memorandum, at 363).

FUND TO SUPPORT EDUCATION EXCELLENCE IN
KENTUCKY**157.3175. Preschool education program — Grant allocation — Program components — Exemption.**

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(i), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 772 (Final Budget Memorandum, at 363).

157.360. Base funding level — Adjustment — Enforcement of maximum class sizes — Allotment of program funds.

2002-2004 Budget References. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. C, item 32(a),

at 1742; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 752 (Final Budget Memorandum, at 343).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 14(a), at 1864; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 754 (Final Budget Memorandum, at 344).

157.390. Determination of teachers' salaries and other required public school funding components — Additional compensation expenses.

Cross-References. Differentiated compensation, 702 KAR 3:310.

157.395. Salary supplement for national board certified teachers.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. C item 32(a), at 1742; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 751 (Final Budget Memorandum, at 341).

157.410. Payments of funds to districts.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 14(c), at 1864; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 752 (Final Budget Memorandum, at 343).

157.420. Restrictions governing expenditure of funds from public school fund — Use of historic settlement school facilities. [Effective until July 1, 2004.]

2002-2004 Budget References. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 14(b), at 1864; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 755 (Final Budget Memorandum, at 344).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 14(f), at 1864; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 755 (Final Budget Memorandum, at 344).

SCHOOL FACILITIES CONSTRUCTION COMMISSION

157.611. School Facilities Construction Commission — Legislative intent.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. D, item 36, at 1745; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 797 (Final Budget Memorandum, at 392).

157.620. School district participation requirements.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 19(d), at

1868; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 797 (Final Budget Memorandum, at 392).

157.621. Additional tax levy for debt service and new facilities in school districts with student population growth — Criteria — Expiration of section.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 14(g), at 1864; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 755 (Final Budget Memorandum, at 345).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 19(c), at 1868; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 798 (Final Budget Memorandum, at 391).

157.622. Assistance to school districts — Priority order of needs — Exception — Reallocation of funds — Disposition of bond savings and refinancing savings.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 19(a), at 1868; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 796 (Final Budget Memorandum, at 391).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 19(b), at 1868; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 796 (Final Budget Memorandum, at 391).

157.650. Construction of certain sections relating to educational technology — Power of School Facilities Construction Commission.

2002-2004 Budget References. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. D, item 36, at 1745; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 797 (Final Budget Memorandum, at 392).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(b), at 1866; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 771 (Final Budget Memorandum, at 362).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 67(a), at 1888; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 1384 (Final Budget Memorandum, at 1025).

157.655. Education technology program.

2002-2004 Budget References. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. D, item 36, at 1745; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 797 (Final Budget Memorandum, at 392).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(b), at 1866; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 771 (Final Budget Memorandum, at 362).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 67(a), at 1888; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 1384 (Final Budget Memorandum, at 1025).

157.660. Procedures for providing assistance for education technology.

2002-2004 Budget References. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. D, item 36, at 1745; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 797 (Final Budget Memorandum, at 392).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(b), at 1866; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 771 (Final Budget Memorandum, at 362).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 67(a), at 1888; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 1384 (Final Budget Memorandum, at 1025).

157.665. Kentucky education technology trust fund.

2002-2004 Budget References. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. D, item 36, at 1745; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 797 (Final Budget Memorandum, at 392).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(b), at 1866; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 771 (Final Budget Memorandum, at 362).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 67(a), at 1868; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 1384 (Final Budget Memorandum, at 1025).

CHAPTER 158

CONDUCT OF SCHOOLS — SPECIAL PROGRAMS

SECTION.

CONDUCT OF SCHOOLS

158.032. Flagging record of missing child — Procedure upon recovery — Documents required upon enrollment or transfer.

158.075. Veterans Day observance in public high schools.

ADVANCED PLACEMENT AND DUAL ENROLLMENT

158.647. Education Assessment and Accountability Review Subcommittee — Members — Duties — Vote required to act.

158.6471. Meetings — Required attendance for department representative — Report — Assignment of regulation to committee — Consideration.

158.7991. Legislative findings and declarations.

158.7992. Program to promote instruction in the arts and foreign languages.

158.805. Commonwealth school improvement fund — Purposes — Criteria for grants to schools needing assistance.

158.005. Definition of “character education.”

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 18(a), at 1868; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 793 (Final Budget Memorandum, at 388).

CONDUCT OF SCHOOLS

158.032. Flagging record of missing child — Procedure upon recovery — Documents required upon enrollment or transfer.

- (1) Upon notification by the commissioner of education of a child's disappearance, any school in which the child is currently or was previously enrolled shall flag the record of the child so that when a copy of or information regarding the child's record is requested, the school shall be alerted that the record is that of a missing child. The school shall immediately report to local law enforcement or the Kentucky State Police any request concerning flagged records or any knowledge as to the whereabouts of any missing child.
 - (2) Upon notification by the commissioner of education of any missing child who has been recovered, the school shall remove the flag from the child's record.
 - (3) Upon enrollment of a student for the first time in any elementary or secondary school, the school shall notify in writing the person enrolling the student that within thirty (30) days the person shall provide either:
 - (a) A certified copy of the student's birth certificate; or
 - (b) Other reliable proof of the student's identity and age, and an affidavit of the inability to produce a copy of the birth certificate.
 - (4) Upon the failure of a person enrolling the student to comply with this section, the school shall notify the person in writing that unless he complies within ten (10) days the case shall be referred to the Kentucky State Police or local law enforcement officials for investigation. If compliance is not obtained within the ten (10) day period, the school shall so refer the case.
 - (5) Within fourteen (14) days after enrolling a transfer student, each elementary or secondary school shall request directly from the student's previous school a certified copy of the student's record. Any school receiving a request of a student's record which has been flagged as the record of a missing child shall not forward the student's record but shall instead notify local law enforcement or the Kentucky State Police.
- (Enact. Acts 1986, ch. 72, § 3, effective July 15, 1986; 1990, ch. 476, Pt. IV, § 196, effective July 13, 1990; 2003, ch. 39, § 3, effective June 24, 2003.)

158.075. Veterans Day observance in public high schools.

All public high schools shall observe Veterans Day under this section.

- (1) On Veterans Day, or one (1) of the five (5) school days preceding Veterans Day, one (1) class period shall be devoted to the observance of Veterans Day.
 - (2) Students shall assemble in one (1) or more groups, as decided by the school principal, to attend the Veterans Day program.
 - (3) The program shall be approved by the principal and, at a minimum, shall consist of a teacher and a veteran speaking on the meaning of Veterans Day.
 - (4) To develop a Veterans Day program, Kentucky public high schools are encouraged to seek advice from the Kentucky Department of Military Affairs and veterans' service organizations, including but not limited to the American Legion and the Veterans of Foreign Wars.
- (Enact. Acts 2003, ch. 162, § 1, effective June 24, 2003.)

158.140. Admission to high school — Promotion — Classification — High school diploma — Vocational certificate of completion.

Cross-References. World War II veterans diplomas, 704 KAR 7:140.

158.175. Recitation of Lord's prayer and pledge of allegiance — Instruction in proper respect for and display of the flag — Observation of moment of silence or reflection.

Northern Kentucky Law Review. Kentucky Law Survey: Education, 29 N. Ky. L. Rev. 115 (2002).

158.195. Reading and posting in public schools of texts and documents on American history and heritage.

Northern Kentucky Law Review. Kentucky Law Survey: Education, 29 N. Ky. L. Rev. 115 (2002).

SCHOOL SAFETY AND SCHOOL DISCIPLINE

158.446. Use of appropriated funds.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(d), at 1866; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 772 (Final Budget Memorandum, at 363).

ADVANCED PLACEMENT AND DUAL ENROLLMENT

158.622. Administrative regulations of Kentucky Board of Education relating to advanced placement courses — Duties of Department of Education relating to advanced placement and dual enrollment programs — Credit for Virtual High School and advanced placement courses.

Cross-References. Advanced placement, 704 KAR 3:510.

EDUCATIONAL IMPROVEMENT

158.6453. Assessment of achievement of goals — Development of Commonwealth Accountability Testing System — Components — Assessment design — Biennial plan for validation studies — Local assessment — School report card.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(k), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 773 (Final Budget Memorandum, at 364).

158.6455. System to identify and reward successful schools — School accountability index — Consequences for schools not meeting goals — Scholastic audits — Formula for school accountability and improvement goal — District accountability — Appeals of performance judgments.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(q), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 774 (Final Budget Memorandum, at 365).

158.647. Education Assessment and Accountability Review Subcommittee — Members — Duties — Vote required to act.

- (1) A permanent subcommittee of the Legislative Research Commission to be known as the Education Assessment and Accountability Review Subcommittee is hereby created. The subcommittee shall be composed of eight (8) members appointed as follows: three (3) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. Members of the subcommittee shall serve for terms of two (2) years, and the members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. The co-chairs shall have joint responsibilities for subcommittee meeting agendas and presiding at subcommittee meetings. A majority of the entire membership of the Education Assessment and Accountability Review Subcommittee shall constitute

a quorum, and all actions of the subcommittee shall be by vote of a majority of its entire membership. Any vacancy that may occur in the membership of the subcommittee shall be filled by the same appointing authority who made the original appointment.

- (2) The subcommittee shall review administrative regulations and advise the Kentucky Board of Education concerning the implementation of the state system of assessment and accountability, established in KRS 158.6453, 158.6455, and 158.782.
 - (3) The subcommittee shall advise and monitor the Office of Education Accountability in the performance of its duties according to the provisions of KRS 7.410.
 - (4) On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090.
 - (5) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090.
- (Enact. Acts 1998, ch. 598, § 2, effective April 14, 1998; 2000, ch. 437, § 2, effective July 14, 2000; 2002, ch. 235, § 1, effective April 8, 2002; 2003, ch. 185, § 6, effective March 31, 2003.)

158.6471. Meetings — Required attendance for department representative — Report — Assignment of regulation to committee — Consideration.

- (1) Within forty-five (45) days after publication of an administrative regulation in "The Administrative Register" or within sixty (60) days of the receipt of a statement of consideration, the Education Assessment and Accountability Review Subcommittee shall meet to review the administrative regulation.
- (2) The meetings shall be open to the public.
- (3) Public notice of the time, date, and place of the subcommittee meeting shall be given in The Administrative Register.
- (4) A representative of the Department of Education shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the Department of Education is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
- (5) Following the meeting and before the next regularly scheduled meeting of the Legislative Research Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has

reviewed. One (1) copy shall be sent to the Department of Education. The subcommittee's findings shall be published in The Administrative Register.

- (6) (a) After review by the subcommittee, the Commission shall at its next regularly scheduled meeting assign the matter as appropriate to the Interim Joint Committee on Education, the Senate standing Education Committee, the House standing Education Committee, or the Senate and the House standing committees meeting jointly.
- (b) Upon notification of the assignment by the Commission, the Education Committee shall notify the regulations compiler:
 1. Of the date, time, and place of the meeting at which it will consider the matter; or
 2. That it will not meet to consider the matter.
- (7) Within thirty (30) days of the assignment, the Education Committee, when it plans to consider an administrative regulation, shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The committee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.
- (8) The Department of Education shall comply with subsection (4) of this section.
- (9) The Education Committee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.
- (10) (a) Upon adjournment of the meeting at which the Education Committee has considered an administrative regulation pursuant to subsection (7) of this section, the committee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.
- (b) Following the meeting and before the next regularly scheduled meeting of the Commission, the committee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy shall be sent to the Department of Education. The committee's findings shall be published in The Administrative Register.

(Enact. Acts 1998, ch. 598, § 4, effective April 14, 1998; 2003, ch. 89, § 18, effective June 24, 2003.)

158.648. State Advisory Council for Gifted and Talented Education — Purpose — Duties.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(j), at

1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 772 (Final Budget Memorandum, at 363).

158.782. Guidelines to provide highly skilled education assistance to schools and districts — Professional leave for selected employee — Review of paperwork requirements.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(q), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 774 (Final Budget Memorandum, at 365).

158.7991. Legislative findings and declarations.

- (1) (a) The General Assembly finds and declares that the integration of the arts and foreign languages into the school curriculum benefits students by increasing their motivation to learn; improves attendance; fosters multicultural understanding; and develops neurological cognitive potential through higher-order thinking skills, creativity, and problem solving. Further, the General Assembly finds and declares that arts and foreign language education can renew and invigorate faculty and can foster greater parent and community participation and support.
 - (b) The General Assembly notes that it created a system of public education that allows and assists all students to acquire certain capacities provided under KRS 158.645, including communication skills necessary to function in a complex and changing civilization and sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage.
 - (c) The General Assembly further notes that its goals for public schools under KRS 158.6451 include: to develop students' abilities to use basic communication and mathematics skills for purposes and situations they will encounter throughout their lives; to apply core concepts and principles from mathematics, the sciences, the arts, the humanities, and social studies; and to connect and integrate experiences and new knowledge from all subject matter fields with what they have previously learned and build on past learning experiences to acquire new information through various sources.
 - (2) It is the intent of the General Assembly in enacting KRS 158.7992 to address the findings and declarations set out in subsection (1) of this section.
- (Enact. Acts 2003, ch. 35, § 1, effective June 24, 2003.)

158.7992. Program to promote instruction in the arts and foreign languages.

- (1) The Department of Education shall establish a program that promotes the integration of the arts

and foreign languages in the elementary school program. A school shall submit an application through the district superintendent, with the agreement of the school council or of the principal, if a council does not exist. The department shall award a grant to at least one (1) school per region based on the quality of the application in meeting the criteria established in subsection (2) of this section. Special consideration shall be given, but not limited to, a school that does not have an existing comprehensive arts and foreign language program.

- (2) School programs under subsection (1) of this section shall include, but not be limited to, the following components:
 - (a) Instruction in each of the four (4) disciplines of dance, drama, music, and the visual arts that includes the core content skills and knowledge taught in a sequential manner and includes all students in the elementary school;
 - (b) Intense instruction in at least one (1) foreign language that includes skills and knowledge related to communicative language and culture and includes all students in the elementary school;
 - (c) Integration of arts and foreign language instruction across the curriculum;
 - (d) Coordination of the programs by teachers with appropriate arts and foreign language certification;
 - (e) Professional development for teachers and administrators designed to facilitate the effective teaching of arts and foreign languages;
 - (f) An effective monitoring and evaluation system that includes student performance assessment;
 - (g) Partnerships with parents, local cultural agencies, individual artists, and native speakers of the foreign language who work in collaboration with classroom teachers;
 - (h) Support from the local school board, the school council, and teachers; and
 - (i) Student attendance at one (1) or more live performance or visual art exhibition each school year.
- (3) The Department of Education shall report annually by July 1 of each year on the implementation of the program to the Governor and the Legislative Research Commission.

(Enact. Acts 2003, ch. 35, § 2, effective June 24, 2003.)

158.805. Commonwealth school improvement fund — Purposes — Criteria for grants to schools needing assistance.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(r), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 775 (Final Budget Memorandum, at 365).

CHAPTER 159

COMPULSORY ATTENDANCE

SECTION.

159.140. Duties of director of pupil personnel.

159.140. Duties of director of pupil personnel.

- (1) The director of pupil personnel shall:
 - (a) Devote his entire time to the duties of his office except as provided in subsection (2) of this section;
 - (b) Enforce the compulsory attendance and census laws in the attendance district he serves;
 - (c) Acquaint the school with the home conditions of the student, and the home with the work and advantages of the school;
 - (d) Ascertain the causes of irregular attendance and truancy, and seek the elimination of these causes;
 - (e) Secure the enrollment in school of all students who should be enrolled and keep all enrolled students in reasonably regular attendance;
 - (f) Visit the homes of students who are absent from school or who are reported to be in need of books, clothing, or parental care;
 - (g) Provide for the interviewing of students and the parents of those students who quit school to determine the reasons for the decision. The interviews shall be conducted in a location that is nonthreatening for the students and parents and according to procedures and interview questions established by an administrative regulation promulgated by the Kentucky Board of Education. The questions shall be designed to provide data that can be used for local district and statewide research and decision-making. Data shall be reported annually to the local board of education and the Department of Education;
 - (h) Report to the superintendent of schools in the district in which the student resides the number and cost of books and school supplies needed by any student whose parent, guardian, or custodian does not have sufficient income to furnish the child with the necessary books and school supplies;
 - (i) Keep the records and make the reports that are required by law, by regulation of the Kentucky Board of Education, and by the superintendent and board of education.
 - (2) A local school district superintendent may waive the requirement that a director of pupil personnel devote his or her entire time to his or her duties. The superintendent shall report the decision to the commissioner of education.
- (4434-6, 4434-8 to 4434-10: amend. Acts 1956, ch. 237, § 6; 1978, ch. 155, § 82, effective June 17, 1978; 1990, ch. 476, Pt. IV, § 220, effective July 13, 1990; 1996, ch. 362, § 6, effective July 15, 1996; 1998, ch. 514, § 7, effective July 15, 1998; 2003, ch. 159, § 1, effective March 31, 2003.)

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(l), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 773 (Final Budget Memorandum, at 365).

Opinions of Attorney General. Before the 2003 amendments, although the positions of county director of pupil personnel and city director of pupil personnel were not incompatible as such, they are incompatible in fact because, under prior law, subdivision (1) of this section requires that a director of pupil personnel must devote his entire time to his duties which he could not do in two (2) such positions. OAG 60-1027.

Before the 2003 amendments, even though the language of this section provides that the director of pupil personnel shall devote his entire time to the duties of his office, such director may be a member of the board of trustees of a public library district. OAG 67-83.

Before the 2003 amendments, where an entire classroom unit (under KRS 157.360(9)) is involved, the director of pupil personnel must devote his or her entire time to the duties of that office and would not be able to also serve as the director of transportation; however where a proportionate fraction of a unit is involved, the requirement of subdivision (1) of this section would be met by the director of pupil personnel by spending an amount of time in the same proportion to the normal school day that the fraction bears to the unit will constitute devoting the entire time to the duties of the office. OAG 80-389.

NOTES TO DECISIONS

1. Before the 2003 amendments, "Full Time" Mandatory.

This section is mandatory in providing that the director of personnel spend his full time on his duties. Board of Educ. v. Miller, 299 S.W.2d 626 (Ky. 1957).

CHAPTER 160

SCHOOL DISTRICTS

SECTION.

BOARDS OF EDUCATION

160.345. Required adoption of school councils for school-based decision making — Composition — Responsibilities — Professional development — Exemption — Formula for allocation of school district funds — Intentionally engaging in conduct detrimental to school-based decision making by board member, superintendent, district employee, or school council member — Complaint procedure — Disciplinary action.

DISTRICT OFFICERS AND EMPLOYEES

160.380. School employees — Restrictions on appointment of relatives, violent offenders, and persons convicted of sex crimes — National and state criminal history background checks on applicants.

BOARDS OF EDUCATION

160.180. Eligibility requirements.

NOTES TO DECISIONS

1. Constitutionality.

"Aunt, uncle" language of KRS 160.180(1) is unconstitutional,

and the proper remedy is to sever the aforementioned unconstitutional language from the statute, pursuant to the severability statute, KRS 446.090, thus preserving the constitutionality of KRS 160.180(1) and (2)(i); there was no rational basis for the difference in the treatment or classification of aunt/uncle and niece/nephew, in KRS 160.180(1). Commonwealth ex rel. Chandler v. Crutchfield, — S.W.3d —, 2003 Ky. App. LEXIS 129 (Ky. Ct. App. May 30, 2003).

160.310. Board to provide insurance for school buses.

NOTES TO DECISIONS

4. Liability of Board.

Where a board of education had liability insurance covering a specific situation and selling surplus material was a governmental function, the board could be sued, but a judgment was only enforceable against its insurance carrier to the extent of the policy limits. Casey v. Grayson County Bd. of Educ., — S.W.3d —, 2003 Ky. App. LEXIS 36 (Ky. Ct. App. Feb. 14, 2003).

160.345. Required adoption of school councils for school-based decision making — Composition — Responsibilities — Professional development — Exemption — Formula for allocation of school district funds — Intentionally engaging in conduct detrimental to school-based decision making by board member, superintendent, district employee, or school council member — Complaint procedure — Disciplinary action.

(1) For the purpose of this section:

- (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
- (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:
 1. Exclusively vocational-technical, special education, or preschool programs;
 2. Instructional programs operated in institutions or schools outside of the district; or
 3. Alternative schools designed to provide services to at-risk populations with unique needs;
- (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and
- (d) "Parent" means:
 1. A parent, stepparent, or foster parent of a student; or
 2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

- (2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:
- (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;
 - (b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.
 2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
 - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
 - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
- (c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.
 2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;
 - (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
 - (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;
 - (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
 - (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school

council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

- (h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020. The superintendent shall provide additional applicants upon request when qualified applicants are available;
- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
 1. Determination of curriculum, including needs assessment and curriculum development;
 2. Assignment of all instructional and noninstructional staff time;
 3. Assignment of students to classes and programs within the school;
 4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
 5. Determination of use of school space during the school day;
 6. Planning and resolution of issues regarding instructional practices;
 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
 8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
 9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
 10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and
- (j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.
- (3) The policy adopted by the local board to implement school-based decision making shall also address the following:
 - (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
 - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
 - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
 - (d) Professional development plans developed pursuant to KRS 156.095;
 - (e) Parent, citizen, and community participation including the relationship of the council with other groups;

- (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
 - (g) Requirements for waiver of district policies;
 - (h) Requirements for record keeping by the school council; and
 - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) After July 13, 1990, any school in which two-thirds ($\frac{2}{3}$) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.
- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.
- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds ($\frac{2}{3}$) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.
- (9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
- (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
- (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
- (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent.

dent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

(Enact. Acts 1990, ch. 476, Pt. I, § 14, effective July 13, 1990; 1992, ch. 376, § 3, effective July 14, 1992; 1992, ch. 393, § 3, effective July 14, 1992; 1994, ch. 103, § 3, effective July 15, 1994; 1994, ch. 187, § 1, effective July 15, 1994; 1994, ch. 247, § 1, effective July 15, 1994; 1994, ch. 411, § 1, effective July 15, 1994; 1994, ch. 484, § 1, effective July 15, 1994; 1996, ch. 34, § 1, effective July 15, 1996; 1996, ch. 74, § 1, effective July 15, 1996; 1996, ch. 146, § 1, effective July 15, 1996; 1996, ch. 318, § 52, effective July 15, 1996; 1996, ch. 362, §§ 1 and 6, effective July 15, 1996; 1998, ch. 493, § 14, effective April 10, 1998; 1998, ch. 609, § 3, effective July 15, 1998; 2000, ch. 212, § 1, effective July 14, 2000; 2000, ch. 339, § 2, effective July 14, 2000; 2000, ch. 418, § 1, effective July 14, 2000; 2000, ch. 527, § 14, effective July 14, 2000; 2002, ch. 152, § 1, effective July 15, 2002; 2002, ch. 302, § 5, effective July 15, 2002; 2003, ch. 81, § 1, effective June 24, 2003.)

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(i), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 772 (Final Budget Memorandum, at 363).

Opinions of Attorney General.

The Office of Education Accountability cannot prosecute a case to have an executive branch employee disciplined or removed for violation of subsection (9)(a). OAG 02-4.

In both KRS 160.345 hearings and KRS 156.132 hearings, the role of the Commissioner of Education in the hearings is authorized not by those statutes, but by the grant of authority vested in the commissioner as the executive and administrative officer of the Board of Education by KRS 156.148(3). OAG 02-4.

NOTES TO DECISIONS

4. Hiring in Local Schools.

Trial court erred in interpreting KRS 160.345(2)(h) which would have allowed a superintendent to manipulate the system by recommending with impunity, only one applicant out of ten or twelve of those seeking an open principal's position and refuse to provide more, in effect forcing the council to select his choice; such was contrary to the legislature's intent to create a decentralized decision-making authority that so long the applicants possessed the qualifications as required by statute, they must be provided to the decision-making authority for its consideration in selection of a principal. *Robinson v. Back*, — S.W.3d —, 2003 Ky. App. LEXIS 104 (Ky. Ct. App. May 16, 2003).

160.348. Advanced placement, International Baccalaureate, dual enrollment, and dual credit courses.

Cross-References. Advanced placement, 704 KAR 3:510.

DISTRICT OFFICERS AND EMPLOYEES

160.350. Superintendent of schools — Appointment — Term — Vacancy — Qualifications — Removal — Contract extension.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(q), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 774 (Final Budget Memorandum, at 365).

160.352. Screening committee — Minority representation — Recommendations for superintendent.

Opinions of Attorney General.

While this section unambiguously provides that local school boards establish the rules and procedures governing the superintendent selection committee, the election of the teacher representatives to that committee must be conducted under the sole authority of the teachers themselves. OAG 02-006.

160.380. School employees — Restrictions on appointment of relatives, violent offenders, and persons convicted of sex crimes — National and state criminal history background checks on applicants.

NOTES TO DECISIONS

20. Liability of Local Boards of Education.

Summary judgment in favor of county board of education in the employee's 42 U.S.C. § 1983 action alleging a First Amendment claim and a state whistleblower claim was reversed because the employee's concerns fell within the mixed speech category because community had an interest in knowing how the district's teachers were hired and when the district did not follow state law or its own hiring practices under KRS 160.380(2)(a), (b) (2003); likewise, a school district making purchases without approval, not accounting for funds earmarked for a specific purpose, and not balancing sections of the budget would affect and interest the community taxpayers. *Banks v. Wolfe County Bd. of Educ.*, 330 F.3d 888, 2003 Fed. App. 184 (6th Cir. 2003).

DISTRICT FINANCES

160.463. Publication of financial statements of school systems in counties of 300,000.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(k), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 773 (Final Budget Memorandum, at 364).

CHAPTER 161

SCHOOL EMPLOYEES—TEACHERS'
RETIREMENT AND TENURE

SECTION.

CERTIFICATION OF SCHOOL EMPLOYEES

- 161.011. Definitions of “classified employee” and “seniority” — Job classifications and minimum qualifications — Requirements of written contracts and written personnel policies — Reduction in force — Registry of vacant classified employee positions — Review of local board policies by Department of Education.
- 161.102. Emergency substitute teaching certificates.
- 161.1222. Pilot teacher internship program — Report to Interim Joint Committee on Education — Appropriated funds.

NATIONAL BOARD CERTIFICATION OF TEACHERS

- 161.133. Teachers’ national certification incentive trust fund — Purposes — Appropriations.
- 161.134. Preparation for national board certification — Incentives — Authority to prorate reimbursements if funds insufficient — Administrative regulations for mentoring program.

CERTIFICATION OF SCHOOL EMPLOYEES

161.010. Definitions for KRS 161.020 to 161.120.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 18(a), at 1868; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 793 (Final Budget Memorandum, at 388).

161.011. Definitions of “classified employee” and “seniority” — Job classifications and minimum qualifications — Requirements of written contracts and written personnel policies — Reduction in force — Registry of vacant classified employee positions — Review of local board policies by Department of Education.

- (1) (a) “Classified employee” means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and
- (b) “Seniority” means total continuous months of service in the local school district, including all approved paid and unpaid leave.
- (2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless

he holds the qualifications for the position as established by the commissioner of education.

- (3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or high school certificate of completion or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations promulgated by the commissioner of the Department for Adult Education and Literacy.
- (4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.
- (5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:
- (a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.
- (b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.
- (6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.
- (7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.
- (8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or

school boundaries, or other compelling reasons as determined by the superintendent.

- (a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.
 - (b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.
 - (c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.
 - (9) Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:
 - (a) Terms and conditions of employment;
 - (b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and
 - (c) Discipline guidelines and procedures that satisfy due process requirements.
 - (10) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).
 - (11) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.
- (Enact. Acts 1988, ch. 388, § 1, effective July 15, 1988; 1990, ch. 476, Pt. II, § 54, effective July 13, 1990; 1994, ch. 25, § 1, effective July 15, 1994; 1998, ch. 590, § 1, effective April 14, 1998; 2000, ch. 271, § 2, effective March 31, 2000; 2002, ch. 5, § 1, effective July 15, 2002; 2003, ch. 29, § 21, effective June 24, 2003.)

161.027. Preparation program for principals — Assessment and internship requirements.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. A, item 25, at 1737; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 695 (Final Budget Memorandum, at 277).

161.028. Education Professional Standards Board — Powers and duties regarding the preparation and certification of professional school personnel — Membership.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. A, item 25, at 1737; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 694 (Final Budget Memorandum, at 276).

Northern Kentucky Law Review. Kentucky Law Survey: Education, 29 N. Ky. L. Rev. 115 (2002).

161.102. Emergency substitute teaching certificates.

Any applicant for emergency substitute teaching who possesses a bachelor's degree in any subject area from a regionally or nationally accredited institution of postsecondary education shall be granted a certificate for substitute teaching from the Education Professional Standards Board subject to the provisions of KRS 161.120(1). This certificate shall enable the applicant to apply for substitute teaching in any subject area for any grade level in any local school district.

(Enact. Acts 2003, ch. 160, § 3, effective March 31, 2003.)

161.1222. Pilot teacher internship program — Report to Interim Joint Committee on Education — Appropriated funds.

- (1) Whereas, the Education Professional Standards Board is studying the value of modifying the current teacher internship program under KRS 161.030 to provide improved support for beginning teachers, and whereas, the Education Professional Standards Board has received a federal Teacher Quality Enhancement Grant under incentives provided by the 1999 amendments to the Higher Education Act, Pub. L. No. 105-244, to support a pilot program to address this issue and other improvements to teacher preparation, the board is authorized, notwithstanding the requirements of KRS 161.030(5), to conduct a pilot program to study a two (2) year internship program. The pilot program may serve up to eight hundred (800) interns. The program shall be conducted between July 1, 2003 and June 30, 2006.
- (2) All interns in the pilot program shall be governed by the provisions of KRS 161.030, except requirements specified in subsections (5), (6), (7), and (9) of KRS 161.030 which the board may deem inappropriate to the pilot program and which shall be modified in administrative regulations promulgated by the board. The board shall promulgate administrative regulations by July 1, 2003, that specify:
 - (a) Conditions under which prospective intern candidates shall be chosen for participation;
 - (b) Incentives to encourage participation in the two (2) year pilot program;

- (c) Responsibilities of the beginning teacher committee;
 - (d) Duties of teacher mentors;
 - (e) Certification options for interns who may leave the pilot program or lose employment during the pilot years or who have not successfully completed the internship within the two (2) year period;
 - (f) Time, content, and assessment requirements during the mentoring and assessment phases of the internship period; and
 - (g) Other provisions necessary to implement the pilot program.
- (3) The two (2) year internship period shall be counted as experience for teachers for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments.
 - (4) A professional teaching certificate shall not be awarded to a participant in the pilot project until successful completion of the pilot internship program.
 - (5) Participation in the pilot internship program shall not exempt the interns from personnel evaluations to be conducted under KRS 156.557.
 - (6) The board shall collect data, conduct formal evaluations throughout the pilot project, and complete analyses of the data. The board shall provide preliminary findings to the Interim Joint Committee on Education by October 1, 2005 and a final report by October 1, 2006. The reports shall provide data and information relating to the value and costs of a two (2) year internship program, including the benefits of additional mentoring for new teachers, the impact on the retention of new teachers, and the impact on student learning.
 - (7) Notwithstanding KRS 45.229, beginning with the 2003-2004 fiscal year, the board may carry forward general funds appropriated for the internship program into the next fiscal year and each subsequent fiscal year through fiscal year 2005-2006 in an amount necessary to support the interns' second year internship experience and to match the federal funds appropriated under the grant described in subsection (1) of this section.

(Enact. Acts 2003, ch. 6, § 1, effective March 7, 2003.)

Compiler's Notes. The Higher Education Act of 1965, as amended, referred to herein, is primarily compiled as 20 USCA § 1001 et seq.

NATIONAL BOARD CERTIFICATION OF TEACHERS

161.133. Teachers' national certification incentive trust fund — Purposes — Appropriations.

- (1) There is hereby established a "Teachers' National Certification Incentive Trust Fund" in the State Treasury for the purposes of:
 - (a) Funding stipends for teachers to prepare for certification by the National Board for Professional Teaching Standards;
 - (b) Reimbursing a portion of the certification fee to each teacher who is awarded national board certification;

- (c) Reimbursing local boards of education for persons who serve as substitute teachers for national board certification candidates; and
 - (d) Funding stipends for national board certified teachers who serve as mentors to other teachers within the school district.
- (2) Appropriations by the General Assembly in each biennial budget for the purpose of supporting national board certification shall be credited to the fund and invested until needed. All money credited to the fund, including interest earned on money in the fund, shall be retained in the fund for reinvestment and used for the purposes of this section. Funds appropriated to the fund shall not lapse at the end of a fiscal year or a biennium.
 - (3) The Education Professional Standards Board shall promulgate administrative regulations that establish the procedures for the administration of the funds as described in this section and the requirements for participating teachers and local boards of education. The board shall allocate only those funds to teachers or school districts for the purposes in this section for which other sources of funds are not being received. The board may limit the number of participants accepted in any given enrollment or application period due to the lack of available funds.
 - (4) Money in the fund shall be distributed to local boards of education and teachers by the Kentucky Department of Education in compliance with the administrative regulations promulgated by the board.
- (Enact. Acts 2000, ch. 257, § 3, effective July 14, 2000; 2003, ch. 160, § 1, effective March 31, 2003.)

161.134. Preparation for national board certification — Incentives — Authority to prorate reimbursements if funds insufficient — Administrative regulations for mentoring program.

- (1) (a) A teacher pursuing national board certification shall receive from the fund established under KRS 161.133 a stipend of two hundred dollars (\$200) per day for two (2) days beyond the school contract year to prepare for the certification assessments.
- (b) A local board of education shall provide five (5) days' released time during the school year for a teacher pursuing national board certification. The local board of education shall request reimbursement from the fund established under KRS 161.133 for substitute teacher pay based on the local board of education salary schedule for substitute teachers and for stipends paid to a teacher described in subsection (3) of this section. A local board of education may, at its own expense, provide additional released time for teachers pursuing national board certification.
- (c) If a teacher does not successfully complete all assessments required for national board certification during a school year, the provisions in

this subsection may be applied to a second school year.

- (d) When funds are not available to fully fund the requirements of paragraphs (a), (b), and (c) of this subsection for all national board applicants, the board may prorate the specified reimbursements in paragraphs (a) and (b) and may limit the conditions under which provisions of paragraph (c) shall be applied to second year participants. The board shall establish the procedures for carrying out the provisions of this subsection in an administrative regulation.
- (2) (a) As of July 14, 2000, a teacher who attains national board certification shall be reimbursed seventy-five percent (75%) of the certification fee for the initial ten (10) year certificate, except the Education Professional Standards Board may decrease the percentage of reimbursement if a teacher receives payment other than a repayable loan for the same purpose from another source and the cumulative amount would exceed one hundred percent (100%) of the cost of the certification fee.
- (b) Fees for retaking one (1) or more entries of the national board assessment for the initial national board certificate and fees for renewal of the certificate shall be at the teacher's expense.
- (c) Nothing in this subsection shall prohibit the board from reimbursing a percentage of the initial certification fee to a teacher who has received a repayable loan from a local board of education or other agency to offset initial costs.
- (3) A national board certified teacher may receive a stipend in addition to his or her annual compensation for serving as a mentor to teachers within his or her school or school district. The Education Professional Standards Board shall promulgate administrative regulations under which a local board of education, in cooperation with the school-based decision making council, may establish a mentoring program within a school to utilize national board certified teachers. The administrative regulations shall specify the conditions for the mentoring program as well as the amount of the stipend that will be provided to a teacher serving as a mentor.

(Enact. Acts 2000, ch. 257, § 4, effective July 14, 2000; 2003, ch. 160, § 2, effective March 31, 2003.)

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. A, item 25, at 1736; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 694 (Final Budget Memorandum, at 276).

TEACHERS' RETIREMENT

161.714. Inviolable contract — Exception.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 18(b), at

1868; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 793 (Final Budget Memorandum, at 388).

CHAPTER 164

STATE UNIVERSITIES AND COLLEGES—REGIONAL EDUCATION—ARCHAEOLOGY

SECTION.

164.002. Definitions for chapter.

ATHLETE AGENTS AND AGENT CONTRACTS

- 164.680. [Repealed and reenacted.]
- 164.681. [Repealed and reenacted.]
- 164.682. [Repealed and reenacted.]
- 164.683. [Repealed and reenacted.]
- 164.684. [Repealed and reenacted.]
- 164.685. [Repealed and reenacted.]
- 164.686. [Repealed and reenacted.]
- 164.687. [Repealed and reenacted.]
- 164.689. [Repealed and reenacted.]

ATHLETE AGENTS AND AGENCY CONTRACTS

- 164.6901. Short title.
- 164.6903. Definitions for KRS 164.6901 to 164.6935.
- 164.6905. Role of Division of Occupations and Professions.
- 164.6907. Certificate of registration required.
- 164.6909. Contents of application — Certificate from other state.
- 164.6911. Division may refuse to issue certificate — Renewal of registration.
- 164.6913. Suspension, revocation, or nonrenewal of certificate — Temporary certificate.
- 164.6915. Fees.
- 164.6917. Requirements for agency contract.
- 164.6919. Notice to athletic director.
- 164.6921. Cancellation of agency contract by student-athlete.
- 164.6923. Records to be retained by athlete agent.
- 164.6925. Prohibited acts.
- 164.6927. Penalties.
- 164.6929. Right of action of educational institution for damages caused by violation of KRS 164.6901 to 164.6935.
- 164.6931. Construction of KRS 164.6901 to 164.6935.
- 164.6933. Effect of federal act.
- 164.6935. Severability.

HIGHER EDUCATION ASSISTANCE

- 164.769. Teacher scholarships for eligible persons agreeing to render qualified teaching service in Kentucky — Cancellation or repayment of notes.
- 164.785. Qualifications for state assistance — Calculation — Adjustment for scholarship.
- 164.7874. Definitions for KRS 164.7871 to 164.7885.

164.002. Definitions for chapter.

As used in KRS Chapter 164, unless the context requires otherwise:

- (1) "Advanced placement" means a college-level course for the College Board Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area.

- (2) “College Board Advanced Placement examination” means the advanced placement test administered by the College Entrance Examination Board.
 - (3) “College Board” means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations.
 - (4) “Dual credit” means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.
 - (5) “Dual enrollment” means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously.
- (Enact. Acts 2002, ch. 97, § 4, effective July 15, 2002; 2003, ch. 4, § 1, effective June 24, 2003.)

ATHLETE AGENTS AND AGENT CONTRACTS

164.680. Definitions for KRS 164.680 to 164.689. [Repealed and reenacted.]

Compiler’s Notes. This section (Enact. Acts 1998, ch. 259, § 1, effective July 15, 1998) was repealed and reenacted as KRS 164.6903 by Acts 2003, ch. 172, § 2, effective June 24, 2003.

164.681. Division of Occupations and Professions to provide administrative services — Revolving fund — Directory of registered athlete agents — Administrative regulations. [Repealed and reenacted.]

Compiler’s Notes. This section (Enact. Acts 1998, ch. 259, § 2, effective July 15, 1998) was repealed and reenacted as KRS 164.6905 by Acts 2003, ch. 172, § 3, effective June 24, 2003.

164.682. Requirement of athlete agent to register — Application — Fee — Grounds for denial — Availability of financial and business records — Annual contract reports. [Repealed and reenacted.]

Compiler’s Notes. This section (Enact. Acts 1998, ch. 259, § 3, effective July 15, 1998) was repealed and reenacted as KRS 164.6909 by Acts 2003, ch. 172, § 5, effective June 24, 2003.

164.683. Prohibited acts. [Repealed and reenacted.]

Compiler’s Notes. This section (Enact. Acts 1998, ch. 259, § 4, effective July 15, 1998) was repealed and reenacted as KRS 164.6925 by Acts 2003, ch. 172, § 13, effective June 24, 2003.

164.684. Requirements for athlete agent contract — Duty to report contract to athletic director or president — Postdating prohibited — Right to rescind. [Repealed and reenacted.]

Compiler’s Notes. This section (Enact. Acts 1998, ch. 259, § 5, effective July 15, 1998) was repealed and reenacted as KRS 164.6917 by Acts 2003, ch. 172, § 9, effective June 24, 2003.

164.685. Notification to athletic director or president — Penalty. [Repealed and reenacted.]

Compiler’s Notes. This section (Enact. Acts 1998, ch. 259, § 6, effective July 15, 1998) was repealed and reenacted as KRS 164.6919 by Acts 2003, ch. 172, § 10, effective June 24, 2003.

164.686. Damages for failure to notify — Limitation of actions. [Repealed and reenacted.]

Compiler’s Notes. This section (Enact. Acts 1998, ch. 259, § 7, effective July 15, 1998) was repealed and reenacted as KRS 164.6929 by Acts 2003, ch. 172, § 15, effective June 24, 2003.

164.687. Referral of complaint — Investigation — Recommendation of disciplinary action — Appeal — Length of suspension or revocation — Reinstatement. [Repealed and reenacted.]

Compiler’s Notes. This section (Enact. Acts 1998, ch. 259, § 8, effective July 15, 1998) was repealed and reenacted as KRS 164.6913 by Acts 2003, ch. 172, § 7, effective June 24, 2003.

164.689. Penalties for violation of KRS 164.680 to 164.687. [Repealed and reenacted.]

Compiler’s Notes. This section (Enact. Acts 1998, ch. 259, § 9, effective July 15, 1998) was repealed and reenacted as KRS 164.6927 by Acts 2003, ch. 172, § 14, effective June 24, 2003.

ATHLETE AGENTS AND AGENCY CONTRACTS

164.6901. Short title.

KRS 164.6901 to 164.6935 may be cited as the Uniform Athlete Agents Act.
(Enact. Acts 2003, ch. 172, § 1, effective June 24, 2003.)

164.6903. Definitions for KRS 164.6901 to 164.6935.

As used in KRS 164.6901 to 164.6935, unless the context requires otherwise:

- (1) “Agency contract” means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;
- (2) “Athlete agent” means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization;
- (3) “Athletic director” means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male and female students, the athletic program for males or the athletic program for females, as appropriate;
- (4) “Contact” means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;
- (5) “Division” means the Division of Occupations and Professions in the Finance and Administration Cabinet;
- (6) “Endorsement contract” means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;
- (7) “Intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics;
- (8) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;
- (9) “Professional-sports-services contract” means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete;
- (10) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
- (11) “Registration” means registration as an athlete agent pursuant to KRS 164.6901 to 164.6935;
- (12) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and
- (13) “Student-athlete” means an individual who engages in, is eligible to engage in, or may be eligible

in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

(Repealed and reenact., Acts 2003, ch. 172, § 2, effective June 24, 2003.)

Compiler’s Notes. This section was formerly compiled as KRS 164.680.

164.6905. Role of Division of Occupations and Professions.

- (1) By acting as an athlete agent in this state, a nonresident individual appoints the Division of Occupations and Professions as the individual’s agent for service of process in any civil action in this state related to the individual’s acting as an athlete agent in this state.
 - (2) The division may issue subpoenas for any material that is relevant to the administration of KRS 164.6901 to 164.6935.
 - (3) The division may promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to carry out the provisions of KRS 164.6901 to 164.6935.
- (Repealed and reenact., Acts 2003, ch. 172, § 3, effective June 24, 2003.)

Compiler’s Notes. This section was formerly compiled as KRS 164.681.

164.6907. Certificate of registration required.

- (1) Except as otherwise provided in subsection (2) of this section, an individual may not act as an athlete agent in this state without holding a certificate of registration under KRS 164.6911 or 164.6913(3).
 - (2) Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:
 - (a) A student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and
 - (b) Within seven (7) days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.
 - (3) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under contract.
- (Enact. Acts 2003, ch. 172, § 4, effective June 24, 2003.)

164.6909. Contents of application — Certificate from other state.

- (1) An applicant for registration shall submit an application for registration to the division in a form prescribed by the division. An application filed under this section is a public record. The application must be in the name of an individual, and except as otherwise provided in subsection (2) of this section, signed or otherwise authenticated by

the applicant under penalty of perjury and state or contain:

- (a) The name of the applicant and the address of the applicant's principal place of business;
 - (b) The name of the applicant's business or employer, if applicable;
 - (c) Any business or occupation engaged in by the applicant for the five (5) years next preceding the date of submission of this application;
 - (d) A description of the applicant's:
 1. Formal training as an athlete;
 2. Practical experience as an athlete agent; and
 3. Educational background relating to the applicant's activities as an athlete agent;
 - (e) The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;
 - (f) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five (5) years next preceding the date of submission of the application;
 - (g) The names and addresses of all persons who are:
 1. With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and
 2. With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater;
 - (h) Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;
 - (i) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive, or fraudulent representation;
 - (j) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;
 - (k) Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subsection arising out of occupational or professional conduct; and
 - (l) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (g) of this subsection as an athlete agent in any state.
- (2) An individual who has submitted an application for, and holds a certificate of, registration or

licensure as an athlete agent in another state, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (1) of this section. The division shall accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:

- (a) Was submitted in the other state within six (6) months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;
- (b) Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and
- (c) Was signed by the applicant under penalty of perjury.

(Repealed and reenact., Acts 2003, ch. 172, § 5, effective June 24, 2003.)

Compiler's Notes. This section was formerly compiled as KRS 164.682.

164.6911. Division may refuse to issue certificate — Renewal of registration.

- (1) Except as otherwise provided in subsection (2) of this section, the division shall issue a certificate of registration to an individual who complies with KRS 164.6909(1) or whose application has been accepted under KRS 164.6909(2).
- (2) The division may refuse to issue a certificate of registration if the division determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the division may consider whether the applicant has:
 - (a) Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;
 - (b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
 - (c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
 - (d) Engaged in conduct prohibited by KRS 164.6925;
 - (e) Had a registration or licensure as an athlete agent suspended, revoked, or denied, or been refused renewal of registration or licensure as an athlete agent in any state;
 - (f) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or
 - (g) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.
- (3) In making a determination under subsection (2) of this section, the division shall consider:
 - (a) How recently the conduct occurred;

- (b) The nature of the conduct and the context in which it occurred; and
 - (c) Any other relevant conduct of the applicant.
 - (4) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the division. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.
 - (5) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The division shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:
 - (a) Was submitted in the other state within six (6) months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;
 - (b) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and
 - (c) Was signed by the applicant under penalty of perjury.
 - (6) A certificate of registration or a renewal of registration is valid for one (1) year.
- (Enact. Acts 2003, ch. 172, § 6, effective June 24, 2003.)

164.6913. Suspension, revocation, or non-renewal of certificate — Temporary certificate.

- (1) The division may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under KRS 164.6911(2).
 - (2) The division may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing in accordance with KRS Chapter 13B.
 - (3) The division may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.
- (Repealed and reenact., Acts 2003, ch. 172, § 7, effective June 24, 2003.)

Compiler's Notes. This section was formerly compiled as KRS 164.687.

164.6915. Fees.

An application for registration or renewal of registration must be accompanied by a fee in the following amount:

- (1) An initial application for registration fee determined by the division, not to exceed three hundred dollars (\$300);

- (2) An annual renewal fee determined by the division, not to exceed three hundred dollars (\$300); or
- (3) An application for registration fee based upon certification of registration or licensure issued by another state determined by the division, not to exceed two hundred fifty dollars (\$250).

(Enact. Acts 2003, ch. 172, § 8, effective June 24, 2003.)

164.6917. Requirements for agency contract.

- (1) An agency contract must be in a record, signed or otherwise authenticated by the parties.
- (2) An agency contract must state or contain:
 - (a) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or may receive from any other source for entering into the contract or for providing the services;
 - (b) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;
 - (c) A description of any expenses that the student-athlete agrees to reimburse;
 - (d) A description of the services to be provided to the student-athlete;
 - (e) The duration of the contract; and
 - (f) The date of execution.
- (3) An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

**WARNING TO STUDENT-ATHLETE
IF YOU SIGN THIS CONTRACT:**

- (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;
 - (2) IF YOU HAVE AN ATHLETIC DIRECTOR, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT; AND
 - (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.
 - (4) An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.
 - (5) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.
- (Repealed and reenact., Acts 2003, ch. 172, § 9, effective June 24, 2003.)

Compiler's Notes. This section was formerly compiled as KRS 164.684.

164.6919. Notice to athletic director.

- (1) Within seventy-two (72) hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.
 - (2) Within seventy-two (72) hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.
- (Repealed and reenact., Acts 2003, ch. 172, § 10, effective June 24, 2003.)

Compiler's Notes. This section was formerly compiled as KRS 164.685.

164.6921. Cancellation of agency contract by student-athlete.

- (1) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.
 - (2) A student-athlete may not waive the right to cancel an agency contract.
 - (3) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.
- (Enact. Acts 2003, ch. 172, § 11, effective June 24, 2003.)

164.6923. Records to be retained by athlete agent.

- (1) An athlete agent shall retain the following records for a period of five (5) years:
 - (a) The name and address of each individual represented by the athlete agent;
 - (b) Any agency contract entered into by the athlete agent; and
 - (c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.
 - (2) Records required to be retained in subsection (1) of this section are open to inspection by the division during normal business hours.
- (Enact. Acts 2003, ch. 172, § 12, effective June 24, 2003.)

164.6925. Prohibited acts.

- (1) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:
 - (a) Give any materially false or misleading information or make a materially false promise or representation;

- (b) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or
 - (c) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.
- (2) An athlete agent shall not intentionally:
 - (a) Initiate contact with a student-athlete unless registered under KRS 164.6901 to 164.6935;
 - (b) Refuse or fail to retain or permit inspection of the records required to be retained by KRS 164.6923;
 - (c) Fail to register when required by KRS 164.6907;
 - (d) Provide materially false or misleading information in an application for registration or renewal of registration;
 - (e) Predate or postdate an agency contract; or
 - (f) Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.
- (Repealed and reenact., Acts 2003, ch. 172, § 13, effective June 24, 2003.)

Compiler's Notes. This section was formerly compiled as KRS 164.683.

164.6927. Penalties.

- (1) Any person who engages in the business of an athlete agent or represents himself or herself as an athlete agent without being registered in accordance with KRS 164.6901 to 164.6935 shall be guilty of a Class A misdemeanor.
 - (2) Any registered athlete agent who knowingly and willfully commits a prohibited act contained in KRS 164.6925 shall be guilty of a Class D felony.
 - (3) Any registered athlete agent who knowingly and willfully violates any provision of KRS 164.6917 shall be guilty of a Class D felony.
 - (4) A student athlete who knowingly and willfully violates any provision of KRS 164.6919 shall be guilty of a Class A misdemeanor.
 - (5) Any registered athlete agent or athlete who fails to make restitution to a college or university that prevails in a suit brought under KRS 164.6929 shall be guilty of a Class D felony.
- (Repealed and reenact., Acts 2003, ch. 172, § 14, effective June 24, 2003.)

Compiler's Notes. This section was formerly compiled as KRS 164.686.

164.6929. Right of action of educational institution for damages caused by violation of KRS 164.6901 to 164.6935.

- (1) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of Sections 1 to 18 of this Act. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

- (2) Damages of an educational institution under subsection (1) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of Sections 1 to 18 of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.
- (3) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.
- (4) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.
- (5) The division may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars (\$25,000) for a violation of Sections 1 to 18 of this Act.
- (6) Sections 1 to 18 of this Act does not restrict rights, remedies, or defenses of any person under law or equity.

(Repealed and reenact., Acts 2003, ch. 172, § 15, effective June 24, 2003.)

164.6931. Construction of KRS 164.6901 to 164.6935.

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(Enact. Acts 2003, ch. 172, § 16, effective June 24, 2003.)

164.6933. Effect of federal act.

The provisions of KRS 164.6901 to 164.6935 governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 15 U.S.C. sec. 7001 et seq., and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

(Enact. Acts 2003, ch. 172, § 17, effective June 24, 2003.)

164.6935. Severability.

If any provision of KRS 164.6901 to 164.6935 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of KRS 164.6901 to 164.6935 which can be given effect without the invalid provision or application, and to this end the provisions of KRS 164.6901 to 164.6935 are severable.

(Enact. Acts 2003, ch. 172, § 18, effective June 24, 2003.)

HIGHER EDUCATION ASSISTANCE

164.769. Teacher scholarships for eligible persons agreeing to render qualified teaching service in Kentucky — Cancellation or repayment of notes.

- (1) It is the intent of the General Assembly to establish a teacher scholarship program to assist highly qualified individuals to become certified Kentucky teachers and render teaching service in Kentucky schools.
- (2) For purposes of this section, the terms listed below shall have the following meanings:
 - (a) "Critical shortage area" means an understaffing of teachers in particular subject matters at the secondary level, in grade levels, or in geographic locations at the elementary and secondary level, as determined by the commissioner of education in consultation with the authority. The commissioner and the authority may use any source considered reliable including, but not limited to, local education agencies to identify the critical shortage areas.
 - (b) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to initial teacher certification.
 - (c) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying methodology set forth in 20 U.S.C. sec. 1087 kk to 1087 vv.
 - (d) "Participating institution" means an institution of higher education located in Kentucky which offers an eligible program of study and has in force an agreement with the authority providing for administration of this program.
 - (e) "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a public school of the Commonwealth or a private school certified pursuant to KRS 156.160(3), except that an individual having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), whose disability, certified by a licensed physician, prevents that individual from teaching a major portion of each school day, shall be deemed to perform qualified teaching service by teaching the maximum time permitted by the attending physician.
 - (f) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (½) of a school year or one-half (½) of a participating institution's academic year.
 - (g) "Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester.
- (3) The authority may, to the extent of appropriations and other funds available to it pursuant to subsection (9) of this section, award teacher scholarships to persons eligible under subsection (4) of this

section, who initially demonstrate financial need in accordance with standards and criteria established by the authority or received teacher scholarships pursuant to this section prior to July 1, 1996. Each teacher scholarship shall be evidenced by a promissory note that requires repayment or cancellation pursuant to subsection (6) of this section.

- (4) Kentucky residents who are United States citizens and enrolled or accepted for enrollment in an eligible program of study on a full-time basis at a participating institution shall be eligible to apply for and be awarded teacher scholarships. Teacher scholarships shall first be awarded to highly qualified eligible students who meet standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program at a participating institution or who received teacher scholarships pursuant to this section prior to July 1, 1996. If funds are not depleted after awarding teacher scholarships to students who meet the preceding criteria, then awards shall be made to any otherwise eligible students seeking admission to a teacher education program.
- (5) The authority shall establish, by administrative regulation, the maximum amount of scholarship to be awarded for each semester and summer term under this section, and shall prorate the amount awarded to any student enrolled less than full-time in accordance with paragraph (6)(a) of this section. The aggregate amount of scholarships awarded to an individual shall not exceed twelve thousand five hundred dollars (\$12,500) for undergraduate students and seven thousand five hundred dollars (\$7,500) for postbaccalaureate students, except that the aggregate amount of scholarships awarded to an individual who received teacher scholarships pursuant to this section prior to July 1, 1996, including any amount received pursuant to KRS 156.611, 156.613, 164.768, or 164.770, shall not exceed twenty thousand dollars (\$20,000), and the amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period.
- (6) (a) The authority shall disburse teacher scholarships to eligible students who agree to render qualified teaching service as certified teachers, and are unconditionally admitted and enrolled in an eligible program of study on a full-time basis, except that disbursements may be made to otherwise eligible students enrolled less than full-time in the semester or summer term in which the eligible program of study will be completed or otherwise eligible students having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), who have been certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability. Teacher scholarships shall be disbursed to eligible students who received teacher scholarships pursuant to this section

for recertification in a critical shortage area prior to July 1, 1996, who are enrolled in and continuing toward completion of their program of study, and who agree to render qualified teaching service as certified teachers.

- (b) A teacher scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (c) Recipients shall render one (1) semester of qualified teaching service for each semester or summer term of scholarship received, except that recipients who teach in a critical shortage area designated by the authority shall render one (1) semester of qualified teaching service as repayment for two (2) semesters or summer terms of scholarships received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate number of promissory notes.
- (d) If the recipient of a teacher scholarship fails to complete an eligible program of study at a participating institution or fails to render qualified teaching service in any semester following certification or recertification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of scholarships under this paragraph shall be liable for interest accruing from the dates on which the teacher scholarships were disbursed.
- (e) Recipients who have outstanding loans or scholarships under KRS 156.611, 156.613, 164.768, or 164.770 respectively, and who render qualified teaching service, shall have their notes canceled in accordance with subsection (6)(c) of this section.
- (f) The authority shall establish, by administrative regulation, the terms and conditions for the award, cancellation, and repayment of teacher scholarships including, but not limited to, the selection criteria, eligibility for renewal awards, amount of scholarship payments, deferments, the rate of repayment, and the interest rate thereon.
- (g) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the

recipient at the time of receiving the teacher scholarship.

- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.
- (9) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.
- (10) The authority may execute appropriate contracts and promissory notes for administering this section.
- (11) If available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received teacher scholarships. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, initial applications shall be ranked according to regulatory selection criteria, which may include expected family contribution and application date, and awards shall be made to highly qualified applicants until funds are depleted.

(Enact. Acts 1994, ch. 163, § 1, effective July 15, 1994; 1996, ch. 125, § 1, effective July 15, 1996; 1998, ch. 111, § 1, effective July 15, 1998; 2003, ch. 115, § 2, effective June 24, 2003.)

164.785. Qualifications for state assistance — Calculation — Adjustment for scholarship.

- (1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:
 - (a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education;
 - (b) Has been accepted by or is enrolled as a full-time student in a Kentucky independent college or university which is accredited by a regional accrediting association recognized by the United States Department of Education and whose institutional programs are not composed solely of a sectarian instruction. An otherwise eligible student having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability may also qualify under this paragraph; and
 - (c) Has not previously attended college or university for more than seven (7) semesters or the equivalent.
- (2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

- (3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.
- (4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.
- (5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

(Enact. Acts 1972, ch. 114, § 2; 1976, ch. 215, § 4, effective March 29, 1976; 1978, ch. 155, § 104, effective June 17, 1978; 1982, ch. 403, § 7, effective July 15, 1982; 1997 (1st Ex. Sess.), ch. 1, § 122, effective May 30, 1997; 1998, ch. 317, § 1, effective July 15, 1998; 2003, ch. 115, § 3, effective June 24, 2003; 2003, ch. 180, § 2, effective June 24, 2003.)

Legislative Research Commission Note. (6/24/2003). This section was amended by 2003 Ky. Acts chs. 115 and 180, which do not appear to be in conflict and have been codified together.

164.7874. Definitions for KRS 164.7871 to 164.7885.

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon docu-

- mentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; or
2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; and
 3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
- (c) Is not a convicted felon;
 - (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
 - (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
 - (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
 - (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
 - (12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
 - (13) "KEES" means Kentucky educational excellence scholarship;
 - (14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the council;
 - (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
 - (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
 - (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;
 - (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
 - (a) 1. Is publicly operated; or
 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
 - (b) Continues to commit financial resources to student financial assistance programs.
 - (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
 - (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).
- (Enact. Acts 1998, ch. 575, § 2, effective July 15, 1998; 2000, ch. 13, § 1, effective July 14, 2000; 2000, ch. 198, § 1, effective July 14, 2000; 2000, ch. 382, § 11, effective July 14, 2000; 2002, ch. 51, § 1, effective July 15, 2002; 2003, ch. 115, § 4, effective June 24, 2003; 2003, ch. 180, § 8, effective June 24, 2003.)
- Legislative Research Commission Note.**
(6/24/2003). This section was amended by 2003 Ky. Acts ch. 180 and included in 2003 Ky. Acts ch. 115. These two enactments do not appear to be in conflict and have been codified together.

CHAPTER 164A

HIGHER EDUCATION FINANCE

SECTION.

KENTUCKY EDUCATIONAL SAVINGS PLAN TRUST

- 164A.350. Ownership of contributions and interest — Cancellation of participation agreement — Transfer of ownership rights — Penalty on earnings refunded due to cancellation or nondistribution — Exemption from creditor's execution.
- 164A.370. Tax exemption.

KENTUCKY EDUCATIONAL SAVINGS PLAN TRUST

164A.350. Ownership of contributions and interest — Cancellation of participation agreement — Transfer of ownership rights — Penalty on earnings refunded due to cancellation or nondistribution — Exemption from creditor's execution.

For all purposes of Kentucky law, the following shall be applicable:

- (1) The trust shall exercise ownership of all contributions made under any participation agreement and all interest derived from the investment of the contributions made by the participant up to the date of utilization for payment of higher education costs for the beneficiary. All contributions made under any participant agreement and interest derived from the investment of the contributions made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;
- (2) Any participant may cancel a participation agreement at any time, and terminate the trust's ownership rights thereby created in whole or in part, by delivering an instrument in writing signed and delivered to the program administrator or his designee. In the event the participation agreement is terminated in part, the trust shall retain ownership of all contributions made under the participation agreement not previously expended for the higher education costs of the beneficiary and not returned to the participant. The participant shall retain a reversionary right to receive upon termination the actual market value of the participant's account at the time of the cancellation, including interest, except that the participant may be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;
- (3) Any participant may cancel a participation agreement and shall be permitted to transfer funds to the Commonwealth postsecondary education prepaid tuition trust fund established in KRS 164A.701, and in compliance with administrative regulations promulgated by the board for the savings plan trust;
- (4) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant may be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;
- (5) The institution of higher education shall obtain ownership of the distributions made from the participant's account for the higher education costs paid to the institution at the time each payment is made to the institution;
- (6) Any amounts received by the trust pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section shall be owned by the trust;
- (7) A participant may transfer the participant's rights to another eligible participant, including, but not limited to, a gift of the participant's rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be effected and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;
- (8) Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:
 - (a) The death, permanent disability, or mental incapacity of the beneficiary; or
 - (b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26 U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and
- (9) Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

(Enact. Acts 1988, ch. 88, § 11, effective July 15, 1988; 1992, ch. 190, § 10, effective July 14, 1992; 1998, ch. 132, § 6, effective March 26, 1998; 2000, ch. 163, § 10, effective July 14, 2000; 2000, ch. 382, § 7, effective July 14, 2000; 2003, ch. 180, § 5, effective June 24, 2003.)

164A.370. Tax exemption.

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. Investment income earned on contributions paid by any participant and used for higher education costs defined in KRS 164A.305(6) or refunded under KRS 164A.350(8)(a) or (b) shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the investment income was accrued being deemed and declared to be entirely public in nature. Earnings that are not used for higher education costs as defined in KRS 164A.305(6) and are refunded shall be subject to Kentucky income tax, except for earnings refunded pursuant to KRS 164A.350(8) (a) or (b).

(Enact. Acts 1988, ch. 88, § 15, effective July 15, 1988; 2000, ch. 382, § 9, effective July 14, 2000; 2003, ch. 150, § 2, effective June 24, 2003; 2003, ch. 180, § 6, effective June 24, 2003.)

Legislative Research Commission Note. (6/24/2003). This section was amended by 2003 Ky. Acts chs. 150 and 180, which do not appear to be in conflict and have been codified together.

COMMONWEALTH POSTSECONDARY EDUCATION PREPAID
TUITION TRUST FUND

164A.700. Definitions for KRS 164A.700 to 164A.709.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 46(a), at 1881; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 1112 (Final Budget Memorandum, at 742).

TITLE XVI
MOTOR VEHICLES

CHAPTER 186

**LICENSING OF MOTOR VEHICLES,
OPERATORS AND TRAILERS**

SECTION.

OPERATOR'S LICENSE

186.440. Persons ineligible for operator's license — Reinstatement fee and exemption.

PENALTIES

186.990. Penalties.

OPERATOR'S LICENSE

186.440. Persons ineligible for operator's license — Reinstatement fee and exemption.

An operator's license shall not be granted to:

- (1) Any person who is not a resident of Kentucky;
- (2) Any person under the age of sixteen (16);
- (3) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;
- (4) Any person whose operator's license has been suspended, during the period of suspension, subject to the limitations of KRS 186.442;
- (5) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;
- (6) Any applicant adjudged incompetent by judicial decree;
- (7) Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;
- (8) Any person who is unable to understand highway warnings or direction signs in the English language;
- (9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;
- (10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;
- (11) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;
- (12) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or
- (13) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars (\$15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars (\$5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars (\$10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of

the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

(2739m-37: amend. Acts 1966, ch. 78, § 1; 1966, ch. 255, § 170; 1974, ch. 306, § 2; 1978, ch. 92, § 8, effective June 17, 1978; 1980, ch. 88, § 1, effective July 15, 1980; 1986, ch. 123, § 1, effective July 15, 1986; 1990, ch. 63, § 1, effective July 13, 1990; 1990, ch. 234, § 2, effective July 13, 1990; 1994, ch. 267, § 1, effective July 15, 1994; 1994, ch. 416, § 7, effective July 15, 1994; 1994, ch. 455, § 3, effective July 15, 1994; 1996, ch. 341, § 10, effective July 15, 1996; 1996, ch. 198, § 4, effective October 1, 1996; 1998, ch. 442, § 5, effective July 15, 1998; 2002, ch. 264, § 6, effective July 15, 2002; 2003, ch. 189, § 2, effective June 24, 2003.)

PENALTIES

186.990. Penalties.

- (1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(4), 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180(1) to (4) (a), 186.210, 186.230, or KRS 186.655 to 186.680 shall be guilty of a violation.
- (2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be guilty of a Class A misdemeanor.
- (3) A person who violates the provisions of KRS 186.450(4) or (5) shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.
- (4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.
- (5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have it on his or her person or misplaced or lost it, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.
- (6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.
- (7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.
- (8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.
- (9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.
- (10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.
- (12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars (\$100), or of a Class D felony if the amount of tax due is more than one hundred dollars (\$100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

(2739g-5c, 2739g-6, 2739g-7, 2739g-65, 2739g-103, 2739g-104, 2739m-36, 2739m-48, 2739m-59, 2739m-69: amend. Acts 1946, ch. 208, § 4; 1958, ch. 70, § 28; 1960, ch. 37, § 5; 1966, ch. 83, § 2; 1970, ch. 92, § 58; 1978, ch. 101, § 1, effective June 17, 1978; 1979 (Ex. Sess.), ch. 7, § 2, effective July 1, 1979; 1980, ch. 296, § 5, effective July 15, 1980; 1982, ch. 303, § 2, effective July 15, 1982; 1984, ch. 373, § 7(1) to (9), effective July 13, 1984; 1986, ch. 118, § 104, effective July 1, 1987; 1986, ch. 431, § 14, effective July 15, 1986; 1986, ch. 498, § 6, effective April 1, 1987; 1992, ch. 463, § 20, effective July 14, 1992; 1996, ch. 198, § 17, effective October 1, 1996; 2000, ch. 441, § 3, effective July 14, 2000; 2003, ch. 103, § 5, effective June 24, 2003.)

Legislative Research Commission Note. (6/24/2003). 2000 Ky. Acts ch. 408, sec. 178, renumbered the former subsection (2) of KRS 186.045 as subsection (1), but that Act failed to include a conforming amendment to change the reference to that subsection in subsection (1) of this statute. Under KRS 7.136(1)(e), that change has now been made.

CHAPTER 189

TRAFFIC REGULATIONS—VEHICLE EQUIPMENT AND STORAGE

SECTION.

189.550. Vehicles used for transporting children to stop at railroad crossings.

189.550. Vehicles used for transporting children to stop at railroad crossings.

Operators of all buses and motor vehicles used for transporting children shall stop their vehicles before crossing any railroad when tracks are at the same level of the roadway. The stop shall be made not less than fifteen (15) feet nor more than fifty (50) feet from the nearest track over which the highway crosses, except where the crossing is protected by gates or a flagman employed by the railroad. After making the stop, the operator shall open the service door and carefully look in each direction and listen for approaching trains or

maintenance vehicles before proceeding. If visibility is impaired at the required distance for stopping under this section, the operator may allow the vehicle to slowly roll forward for the purpose of gaining the visibility necessary to safely cross the railroad tracks. (1376r-10: amend. Acts. 1960, ch. 123, § 4; 1988, ch. 262, § 5, effective July 15, 1988; 2003, ch. 147, § 1, effective March 18, 2003.)

TITLE XVII

ECONOMIC SECURITY AND PUBLIC WELFARE

CHAPTER 200

ASSISTANCE TO CHILDREN

SECTION.

EARLY INTERVENTION SERVICES

200.658. Kentucky Early Intervention System Interagency Coordinating Council — Membership — Duties — Annual report — Conflict of interest to bar voting.

200.664. Individualized family services plans.

EARLY INTERVENTION SERVICES

200.658. Kentucky Early Intervention System Interagency Coordinating Council — Membership — Duties — Annual report — Conflict of interest to bar voting.

- (1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the Early Childhood Development Authority. Pursuant to federal law and regulations, the membership shall be as follows:
 - (a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;
 - (b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;
 - (c) At least one (1) member shall be a member of the Kentucky General Assembly;

- (d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;
 - (e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Public Health;
 - (f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;
 - (g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;
 - (h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Community Based Services;
 - (i) At least one (1) member shall be the commissioner or designee of the Department of Education;
 - (j) At least one (1) member shall be the commissioner or designee of the Department of Insurance; and
 - (k) At least one (1) member shall be a representative of the Commission for Children with Special Health Care Needs.
- (2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:
- (a) Development and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;
 - (b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;
 - (c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;
 - (d) Resolution of disputes, to the extent deemed appropriate by the cabinet;
 - (e) Provision of appropriate services for children from birth to three (3) years of age;
 - (f) Identifying sources of fiscal and other support services for early intervention programs;
 - (g) Preparing applications to Part C of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications;
 - (h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA)

operated by the state Department of Education; and

- (i) Developing performance measures to assess the outcomes for children receiving services.
- (3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System, including recommendations of ways to improve quality and cost effectiveness, and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.
- (4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

(Enact. Acts 1994, ch. 313, § 5, effective July 15, 1994; 1998, ch. 426, § 176, effective July 15, 1998; 2000, ch. 14, § 30, effective July 14, 2000; 2000, ch. 308, § 7, effective July 14, 2000; 2003, ch. 69, § 5, effective June 24, 2003.)

200.664. Individualized family services plans.

- (1) Upon identification of an eligible infant or toddler with disabilities, representatives of the entity serving as point of entry shall cause a multidisciplinary team, as defined in KRS 200.654, to be created for the child and family.
- (2) The multidisciplinary team shall develop an individualized family service plan, as defined in KRS 200.654, for the child and family.
- (3) The individualized family services plan shall include:
 - (a) A comprehensive multidisciplinary evaluation of the present level of development of and services needed by the child and an assessment of and plan to address the resources, priorities, and concerns of the family;
 - (b) An explanation of the multidisciplinary evaluation and all service options to be made available in the family's cultural language, in their primary mode of communication, or through a speech or language interpreter, whichever is necessary to facilitate comprehension.
- (4) The plan shall be developed within forty-five (45) days of the referral date of the child and family to the point of entry. If the completion of the initial evaluation and assessment is delayed and will not be completed within the forty-five (45) day time period due to the request of the child's parent, illness of the child, or other reasonable circumstances beyond the control of the multidisciplinary team, the point of entry shall document the reason for the delay and shall develop and implement an interim individualized family service plan.
- (5) The informed written consent of the parent or guardian is required prior to the implementation of the plan. The parent may reject some services contained in the plan, however, no services to

which the parent consents shall be withheld if the parent does not consent to all services in the plan.

- (6) The parent or guardian shall sign an agreement to accept responsibility for being an active participant in the child's plan and for learning skills from providers so that the intensity and frequency of services may decline as the child reaches appropriate developmental levels and the family is able to do more for the child.
- (7) The plan shall be reviewed by members of the child's current multidisciplinary team or other appropriate entities at no more than six (6) month intervals or more frequently if deemed appropriate based on the needs of the infant or toddler and the family. The child shall be evaluated at least annually to determine continuing program eligibility and the effectiveness of services provided to the child.

(Enact. Acts 1994, ch. 313, § 8, effective July 15, 1994; 2003, ch. 69, § 6, effective June 24, 2003.)

TITLE XVIII

PUBLIC HEALTH

CHAPTER 216B

LICENSURE AND REGULATION OF HEALTH FACILITIES AND SERVICES

SECTION.

216B.176. School-based health care programs provided by not-for-profit primary care centers.

216B.177. Moratorium — Establishment of additional satellite school-based health care programs.

216B.176. School-based health care programs provided by not-for-profit primary care centers.

Notwithstanding any other provision of law, a not-for-profit primary care center licensed under KRS Chapter 216, which is a participant in the Kentucky Patient Access and Care System of the Department for Medicaid Services, may enter into a written agreement with a board of education to provide a school-based health care program. The agreement shall include the following provisions:

- (1) The services shall include basic primary care, episodic acute care, care for chronic conditions, and preventive health care for the pupils enrolled in the school;
- (2) The program shall be located in a public school;
- (3) The program shall operate as a satellite of a licensed primary care center under the supervision of the medical director of the primary care center;
- (4) When in operation as a satellite of a primary care center, the program staff shall include a physician, physician assistant, or advanced registered nurse practitioner and may be staffed with additional

health care professionals appropriate for the services being provided; and

- (5) The program may, under agreement with the school, participate in the school's health education program.

(Enact. Acts 2003, ch. 127, § 1, effective June 24, 2003.)

216B.177. Moratorium — Establishment of additional satellite school-based health care programs.

Until August 1, 2004, KRS 216B.176 shall apply only to primary care centers operating a satellite school-based health care program on June 24, 2003. Until August 1, 2004, no primary care center licensed under KRS Chapter 216B shall enter into an agreement with a board of education to operate a school-based health care program that was not in operation on June 24, 2003.

(Enact. Acts 2003, ch. 127, § 2, effective June 24, 2003.)

TITLE XIX

PUBLIC SAFETY AND MORALS

CHAPTER 236

BOILER AND PRESSURE VESSEL SAFETY

SECTION.

236.060. Application of KRS 236.005 to 236.150.

236.210. License required for installing, erecting and repairing boilers — Issuance — Renewal — Exception.

236.060. Application of KRS 236.005 to 236.150.

- (1) KRS 236.005 to 236.150 shall not apply to boilers or pressure vessels or related piping under federal control.
- (2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:
 - (a) Boilers or pressure vessels located on farms and used solely for agricultural purposes;
 - (b) Boilers or pressure vessels located at any oil refineries;
 - (c) Boilers or pressure vessels located at any utility operating under a certificate issued pursuant to KRS 278.020, if the boilers or pressure vessels are inspected by a special boiler inspector under the provisions of KRS 236.110, except that the inspection interval provided for in KRS 236.110 shall be extended to eighteen (18) months;
 - (d) Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences;
 - (e) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private resi-

dences or hot water supply boilers which are located in private residences;

- (f) Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the Department of Housing, Buildings and Construction under KRS Chapter 234;
- (g) Pressure vessels used for transportation of compressed gases if constructed and operated in compliance with specifications and regulations of another state or federal authority;
- (h) Pressure vessels containing air located on vehicles operating under the regulations of another state or federal authority;
- (i) Pressure vessels operating at a maximum pressure of fifteen (15) PSI or less;
- (j) Single wall pressure vessels having an inside diameter of six (6) inches;
- (k) Pressure vessels with a nominal water containing capacity of one hundred twenty (120) gallons or less, to be used for domestic supply purposes, for containing water under pressure, including those containing air, the compression of which serves only as a cushion;
- (l) Pressure vessels containing water heated by steam or other indirect means when none of the following are exceeded:
 1. Heat input of two hundred thousand (200,000) BTU/Hr.;
 2. Water temperature of two hundred ten (210) degrees Fahrenheit;
 3. Water storage capacity of one hundred twenty (120) gallons;
- (m) Coil type hot water boilers without a steam space and where no steam is generated within the confines of the unit but where water flashes into steam when released to atmospheric pressure by the operation of a manually operated nozzle, unless one (1) of the following is exceeded:
 1. Three quarter ($\frac{3}{4}$) inch inside diameter tubing or pipe size with no drum or header attached;
 2. Six (6) gallon water containing capacity;
 3. Three hundred fifty (350) degrees Fahrenheit water temperature;
- (n) Water heaters which are directly fired with oil, gas, or electricity, when none of the following limitations are exceeded:
 1. Heat input of two hundred thousand (200,000) BTU/Hr.;
 2. A water temperature of two hundred ten (210) degrees Fahrenheit;
 3. A water containing capacity of one hundred twenty (120) gallons;
- (o) Pressure vessels which may be classified as:
 1. Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices such as pumps, compressors, turbines, generators, engines, and hydraulic or pneumatic cylinders where the primary design considerations or stresses are derived from the functional requirements of the device; or

2. Structures whose primary function is the transport of fluids from one location to another within a system of which it is an integral part, that is, piping system.
- (3) The fees required by KRS 236.120(1) and 236.130 shall not apply to standard and miniature antique and hobby boiler-operated tractors and equipment used solely for exhibition, if the boiler uses a fifty (50) pounds per square inch or less gauge. (Enact. Acts 1962, ch. 89, § 6; 1970, ch. 246, § 4; 1974, ch. 74, Art. V, § 24(11); 1978, ch. 117, § 34, effective July 1, 1978; 1980, ch. 207, § 7, effective July 15, 1980; 1990, ch. 284, § 1, effective July 13, 1990; 1994, ch. 89, § 1, effective July 15, 1994; 2000, ch. 415, § 1, effective July 14, 2000; 2003, ch. 77, § 1, effective June 24, 2003.)

236.210. License required for installing, erecting and repairing boilers — Issuance — Renewal — Exception.

- (1) No person shall engage in the business of installing, erecting, or repairing boilers unless he first obtains a license from the commissioner on recommendation of the board.
- (2) Each person, firm or corporation must pass an examination prepared by the board and administered by the department.
- (3) A license shall be issued by the commissioner or the chief boiler inspector upon recommendation of the board and payment of a reasonable fee not to exceed the cost of examination and other expenses involved as established by the commissioner upon advice of the board pursuant to KRS Chapter 13A.
- (4) The license shall be renewable annually, not later than the first of the month following the expiration date, upon payment of a reasonable fee not to exceed the costs involved in such renewal as established by the commissioner upon advice of the board pursuant to KRS Chapter 13A.
- (5) All individuals in the employ of a licensee shall not be required to be licensed. (Enact. Acts 1974, ch. 209, § 2; 1980, ch. 207, § 16, effective July 15, 1980; 1986, ch. 127, § 2, effective July 15, 1986; 2003, ch. 77, § 2, effective June 24, 2003.)

TITLE XXVI

OCCUPATIONS AND PROFESSIONS

CHAPTER 323

ARCHITECTS

323.010. Definitions.

2002-2004 Budget References. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. V, item 2(A)(22), at 1852; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 437 (Final Budget Memorandum, at 5).

See State/Executive Branch Budget, 2003 Ky. Acts ch. 549, pt. V, item 2(A)(30), at 1852; and State/Executive Branch Budget Memorandum, 2000 Ky. Acts ch. 143, at 437 (Final Budget Memorandum, at 5).

TITLE XXVII

LABOR AND HUMAN RIGHTS

CHAPTER 337

WAGES AND HOURS

SECTION.

337.010. Definitions for chapter and specific ranges in chapter.

337.010. Definitions for chapter and specific ranges in chapter.

- (1) As used in this chapter, unless the context requires otherwise:
 - (a) “Commissioner” means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;
 - (b) “Department” means Department of Workplace Standards in the Labor Cabinet;
 - (c) “Wages” includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;
 - (d) “Employer” is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and
 - (e) “Employee” is any person employed by or suffered or permitted to work for an employer.
- (2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:
 - (a) “Employee” is any person employed by or suffered or permitted to work for an employer, but shall not include:
 1. Any individual employed in agriculture;
 2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;
 4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
 5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
 6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;
 7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
 8. Any individual engaged in the delivery of newspapers to the consumer;
 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
 10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;
 11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit child-caring facilities licensed by the Cabinet for Families and Children under KRS 199.640 to 199.670; or
 12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health Services or the Cabinet for Families and Children to provide adult foster care.
- (b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;
 - (c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;
 - (d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars (\$30) per month in tips; and
 - (e) "U.S.C." means the United States Code.
- (3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:
 - (a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars (\$250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;
 - (b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;
 - (c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commis-

sioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;
 - (d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and
 - (e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.
 - (4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.
- (1599c-4, 1599c-39, 2290c-1, 2290c-2, 4767a-1, 4767a-17: amend. Acts 1966, ch. 158, § 1; 1968, ch. 100, § 6; 1970, ch. 33, § 1; 1974, ch. 341, § 1; 1974, ch. 391, § 1; 1976, ch. 223, § 1; 1978, ch. 141, § 1, effective June 17,

1978; 1978, ch. 340, § 1, effective June 17, 1978; 1982, ch. 54, § 1, effective July 15, 1982; 1984, ch. 414, § 12, effective July 13, 1984; 1986, ch. 208, § 2, effective July 15, 1986; 1994, ch. 405, § 85, effective July 15, 1994; 1994, ch. 492, § 1, effective July 15, 1994; 1996, ch. 48, § 1, effective July 15, 1996; 1996, ch. 100, § 1, effective July 15, 1996; 1996, ch. 115, § 1, effective July 15, 1996; 1998, ch. 154, § 92, effective July 15, 1998; 1998, ch. 426, § 558, effective July 15, 1998; 1998, ch. 606, § 113, effective July 15, 1998; 2003, ch. 166, § 3, effective June 24, 2003.)

TITLE XXXVII

SPECIAL PROCEEDINGS

CHAPTER 416

EMINENT DOMAIN

EMINENT DOMAIN ACT OF KENTUCKY (1976)

416.560. Initiation of condemnation proceedings — Costs — Right of entry — Damages.

Northern Kentucky Law Review. Kentucky Law Survey: Education, 29 N. Ky. L. Rev. 115 (2002).

TITLE XXXVIII

WITNESSES, EVIDENCE, NOTARIES, COMMISSIONERS OF FOREIGN DEEDS, AND LEGAL NOTICES

CHAPTER 424

LEGAL NOTICES

MATTERS REQUIRED TO BE PUBLISHED

424.220. Financial statements.

2002-2004 Budget Reference. See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. IX, item 16(k), at 1867; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 773 (Final Budget Memorandum, at 364).

TITLE L
KENTUCKY PENAL CODE

CHAPTER 527
OFFENSES RELATING TO FIREARMS AND
WEAPONS

527.070. Unlawful possession of a weapon on
school property — Posting of sign
— Exemptions.

Northern Kentucky Law Review. The Three R's: Reading, Writing, and Rifles? How the Kentucky Supreme Court

Lessened Penalties for Students Who Bring Guns to School in *Darden v. Commonwealth*, 29 N. Ky. L. Rev. 877 (2002).

NOTES TO DECISIONS

1. Duty to Warn of Violation

There is no duty imposed by this section to report to school officials alleged violations of KRS 527.070. *James v. Wilson*, 95 S.W.3d 875 (Ky. Ct. App. 2002).

Index

A

AGENTS.

Athlete agents, §§164.6901 to 164.6935.

APPEALS.

Technical education department.

Kentucky technical education personnel board, §151B.097.

ARTS.

School programs to promote, §§158.7991, 158.7992.

ATHLETE AGENTS, §§164.6901 to 164.6935.

Agency contracts.

Cancellation by student-athlete, §164.6921.

Notice to athletic director, §164.6919.

Prohibited acts, §164.6925.

Penalties, §164.6927.

Requirements, §164.6917.

Athletic director.

Notice to athletic director, §164.6919.

Certificates of registration.

Application, §164.6909.

Fees, §164.6915.

Reciprocity, §164.6909.

Refusal to issue, §164.6911.

Renewal of registration, §164.6911.

Nonrenewal, §164.6913.

Required, §164.6907.

Revocation, §164.6913.

Suspension, §164.6913.

Temporary certificates, §164.6913.

Uncertified practice, §164.6907.

Citation of act, §164.6901.

Construction and interpretation, §164.6931.

Contracts.

Cancellation by student-athlete, §164.6921.

Notice to athletic director, §164.6919.

Prohibited acts, §164.6925.

Requirements, §164.6917.

Defined terms, §164.6903.

Division of occupations and professions.

Duties, §164.6905.

Refusal to issue certificate, §164.6911.

Electronic signatures.

Federal act, effect, §164.6933.

Federal act.

Effect, §164.6933.

Fees.

Certificates of registration, §164.6915.

Fraud.

Prohibited acts, §164.6925.

Penalties, §164.6927.

Invalid provisions.

Severability of provisions, §164.6935.

Notice to athletic director, §164.6919.

Penalties, §164.6927.

Universities and colleges.

Right of educational institution for damages, §164.6929.

Prohibited acts, §164.6925.

Penalties, §164.6927.

Universities and colleges.

Right of educational institution for damages, §164.6929.

Reciprocity.

Certificates of registration, §164.6909.

ATHLETE AGENTS —Cont'd

Records, §164.6923.

Federal act.

Effect, §164.6933.

Severability of provisions, §164.6935.

Short title, §164.6901.

Temporary certificates, §164.6913.

Universities and colleges.

Right of educational institution for damages, §164.6929.

C

CAREER AND TECHNICAL EDUCATION, §§158.810 to 158.816.

CONSENT.

Individualized family services plans, §200.664.

CONSTRUCTION AND INTERPRETATION.

Athlete agents, §164.6931.

COURSES OF STUDY.

Arts and foreign languages, §§158.7991, 158.7992.

CRIMINAL LAW AND PROCEDURE.

Athlete agents.

Prohibited acts, penalties, §164.6927.

D

DEFINED TERMS.

Agency contract.

Athlete agents, §164.6903.

Athlete agents, §164.6903.

Athletic director.

Athlete agents, §164.6903.

Contact.

Athlete agents, §164.6903.

Endorsement contract.

Athlete agents, §164.6903.

Intercollegiate sport.

Athlete agents, §164.6903.

Person.

Athlete agents, §164.6903.

Professional-sports-services contract.

Athlete agents, §164.6903.

Record.

Athlete agents, §164.6903.

Registration.

Athlete agents, §164.6903.

State.

Athlete agents, §164.6903.

Student-athlete.

Athlete agents, §164.6903.

DEPARTMENT OF EDUCATION.

Advanced placement programs.

Duties as to, §158.622.

Career and technical education, §§158.810 to 158.816.

Dual enrollment programs.

Duties as to, §158.622.

Student health services.

Responsibilities of department, §156.501.

E**ELECTIONS.****Candidates.**

- Independent candidates.
- Statement of candidacy, §118.367.
- Statement of candidacy.
- Independent candidates, §118.367.
- Nomination by convention, §118.365.

Independent candidates.

- Statement of candidacy, §118.367.

Political parties.

- Conventions.
- Nomination by convention.
- Statement of candidacy, §118.365.

Technical education department.

- Kentucky technical education personnel board.
- Teacher representatives, §151B.097.

ELECTRONIC TRANSACTIONS.**Athlete agents.**

- Federal act, effect, §164.6933.

EMPLOYEES RETIREMENT SYSTEM.**Employee's contributions.**

- Delayed contributions, §61.552.

F**FEES.****Athlete agents.**

- Certificates of registration, §164.6915.

FELONIES.**Athlete agents.**

- Prohibited acts, penalties, §164.6927.

FINANCE AND ADMINISTRATION CABINET.**Athlete agents.**

- Division of occupations and professions, duties, §164.6905.

Division of occupations and professions.

- Athlete agents, duties, §164.6905.

FIRES AND FIRE PREVENTION.**Firefighters.**

- Commission on fire protection personnel standards and education.
- Safety education fund, §95A.265.
- Education.
- Safety education fund, §95A.265.
- Safety education fund, §95A.265.
- Safety education fund, §95A.265.
- Safety standards.**
- Safety education fund, §95A.265.

FOREIGN LANGUAGES.**School programs to promote, §§158.7991, 158.7992.****FRAUD.****Athlete agents.**

- Prohibited acts, §164.6925.

FUNDS.**Firefighters.**

- Safety education fund, §95A.265.

G**GOVERNOR.****Technical education department.**

- Kentucky technical education personnel board.
- Appointment of board members, §151B.097.

H**HEALTH SERVICES.****Not-for-profit primary care centers.**

- Providing school-based health care programs, §§216B.176, 216B.177.

HIGH SCHOOLS.**Veterans day observance in public high schools,**

- §158.075.

HOLIDAYS.**Schools.**

- Veterans day observance in public high schools, §158.075.

Veterans day.

- Observance in public high schools, §158.075.

HOSPITALS.**Satellite school-based health care programs,**

- §§216B.176, 216B.177.

I**INTERNET.****Technical education department.**

- Kentucky technical education personnel board.
- Electronic balloting, §151B.097.

M**MAIL.****Technical education department.**

- Kentucky technical education personnel board.
- Balloting by electronic mail, §151B.097.

MISDEMEANORS.**Athlete agents.**

- Prohibited acts, penalties, §164.6927.

N**NONPROFIT CORPORATIONS.****School-based health care programs.**

- Not-for-profit primary care centers, §§216B.176, 216B.177.

NOT-FOR-PROFIT PRIMARY CARE CENTERS.**Providing school-based health care programs,**

- §§216B.176, 216B.177.

NOTICE.**Athlete agents.**

- Notice to athletic director, §164.6919.

P**PUBLIC OFFICERS AND EMPLOYEES.****Certification of employees.**

- Beginning teachers.
- Internship.
- Pilot teacher internship program, §161.1222.
- Emergency certificates.
- Substitute teachers, §161.102.
- Internship.
- Pilot teacher internship program, §161.1222.
- New teachers.
- Pilot teacher internship program, §161.1222.
- Substitute teachers.
- Emergency certificates, §161.102.

R**RECIPROCITY.****Athlete agents.**

- Certificates of registration, §164.6909.

RECORDS.**Athlete agents,** §164.6923.

- Federal act.
- Effect, §164.6933.

REPORTS.**Early intervention system interagency coordination council.**

- Annual report, §200.658.

S**SIGNATURES.****Athlete agents.**

- Electronic signatures.
- Federal act, effect, §164.6933.

SPORTS.**Agents.**

- Athlete agents, §§164.6901 to 164.6935.

T**TEACHERS.****Beginning teachers.**

- Pilot teacher internship program, §161.1222.

Certification.

- Beginning teachers.
- Pilot teacher internship program, §161.1222.
- Classified employees.
- Defined, §161.011.
- Establishment of classification, §161.011.
- Qualifications.
- Minimum qualifications, §161.011.
- Definitions.
- Classified employees, §161.011.
- Internship.
- Pilot teacher internship program, §161.1222.

TEACHERS —Cont'd**Certification —Cont'd**

- National board certification.
- Fund, §161.133.
- Teachers' national certification incentive trust fund, §161.133.
- New teachers.
- Pilot teacher internship program, §161.1222.
- Pilot teacher internship program, §161.1222.
- School councils.
- School-based decision making.
- Certified staff to participate, §160.345.

Interns.

- Pilot teacher internship program, §161.1222.

New teachers.

- Pilot teacher internship program, §161.1222.
- Pilot teacher internship program,** §161.1222.

Training.

- Pilot teacher internship program, §161.1222.

TECHNICAL EDUCATION DEPARTMENT.**Kentucky technical education personnel board.**

- Establishment, §151B.097.

State-operated secondary area vocational education and technology centers.

- Management responsibilities, §151B.112.

U**UNIVERSITIES AND COLLEGES.****Athlete agents.**

- Right of educational institution for damages, §164.6929.

V**VETERANS DAY.****Observance in public high schools,** §158.075.**VOCATIONAL EDUCATION AND REHABILITATION.****Technical education department.**

- Kentucky technical education personnel board.
- Establishment, §151B.097.

Notes